LIFE AND DEATH IN SING SING

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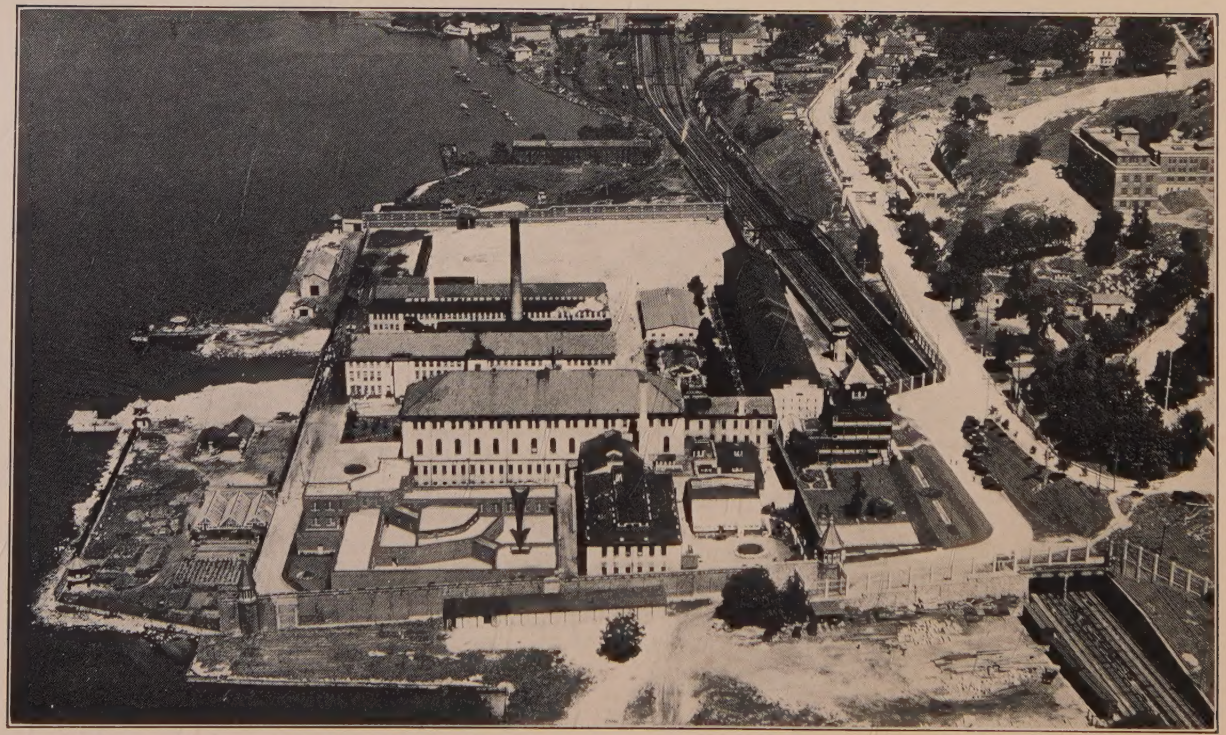

SING SING AS ITS INMATES NEVER SEE IT

The arrow indicates the death chamber. Covered passages connect it with the central pre-execution chamber and thence with the cell wings. The passages and walls form four exercise yards used by men. The women's exercise yard is the square space at the left, near the greenhouses.

LIFE AND DEATH IN SING SING

BY LEWIS E. LAWES
WARDEN OF SING SING

WITH A FOREWORD BY
ADOLPH LEWISOHN

DOUBLEDAY, DORAN AND COMPANY, INC.
GARDEN CITY, NEW YORK · 1930

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FOREWORD

The content of this book is of a highly constructive character. No one is better qualified to write on this subject than Warden Lawes. He is in the prime of life—young enough to have the modern social point of view; old enough to realize that theories are of value only if practicable. His ideals, which are high, have been shaped and tempered by nearly twenty-five years of practical prison experience, during which he rose from guard to the wardenship of the world's best-known prison, Sing Sing. He has been continuously at the head of this prison since January 1, 1920, and his efficient service here has made him an international figure in penological work. He was president of the National Wardens' Association in 1922, president of the American Prison Association in 1923, and United States delegate to the International Prison Congress held in London in 1925.

Warden Lawes is not the typical prison executive who feels that his full duty consists in being an efficient jailer. He has strong convictions about his duties and responsibilities, and the courage of these convictions. He endeavours to find the good that is in a prisoner and foster it so that in time it may become

dominant over the bad. He is neither a long-haired reformer nor a short-haired bully, but believes in applying common sense in the handling of prisoners. He has an open mind, and although he believed in capital punishment when he became warden he changed his mind as a result of studies which are incorporated in his book, *Man's Judgment of Death*.

Warden Lawes is neither oversentimental nor too hard-hearted. He has been an excellent executive in this important position, being the practical chief of about seventeen hundred inmates of Sing Sing, and has proved himself exceptionally fit for this difficult position. A prison is not an exceptional place; it is part of the general community. People go into it and out of it constantly. The proper care and handling of the men in prison is not only of importance to the prison but to the general community, the importance to the community being that the prisoners, when discharged from prison, should be so fitted out that they are likely to be able to take care of themselves and their families and not spread disease, either physical or mental, among the general public, wherein eventually they must again make a place for themselves.

It is known by most people that I have given the subject of prisons and prisoners deep study for thirty years, during a great part of which time I acted in the capacity of president of the National Committee on Prisons and Prison Labour and was chairman of the

Prison Survey Committee of New York. I have watched Warden Lawes's work for about twenty years and have great admiration for the excellent way in which he has handled this difficult task. In my opinion this phase of community life is of the greatest importance. The warden can do a lot of good and a lot of harm, and I can say that Warden Lawes, during his administration, has been of great benefit to the people of New York State and indirectly to the people of the United States.

The present book is Warden Lawes's further studies of crime and the criminal. The hospital is admittedly the best place to study disease. A prison is unquestionably the best place to study crime. Most books on crime and the criminal have been written either by men who lacked practical prison experience or by those who viewed the problems from the point of view of the prisoner. Warden Lawes knows the criminal as he is and portrays him neither as a sort of monstrosity nor as a hero, but as a human being who has violated the law. Those who are looking for either sensation or romance will be disappointed in this book, but those who are looking for vital, constructive facts, which are often stranger than fiction, will be amply repaid for reading and studying it. I commend the book to thinking men and women.

ADOLPH LEWISOHN.

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INTRODUCTION

THE WHY OF THIS BOOK

"Oh, Mamma, that man looks just like Papa," said the little daughter of a minister to her mother, as she pointed to a Sing Sing prisoner who was doing ten years for grand larceny in connection with a confidence game. This was amusing to me, and exceedingly embarrassing to the mother, as the minister had previously insisted to me that criminals were physically marked and that he could pick them out of a crowd at a glance.

"They should be whipped. I tell you, severe punishment is what the criminal needs." Thus spoke a man to me several years ago. Later, this man's son was sent to Sing Sing, and recently this same man took decided exceptions to the prison regulations which did not permit him to send in a chicken to his son, because, according to prison rules, prisoners may not receive luxuries.

In reading the newspapers, I find one prominent man quoted as saying that the crux of the criminal problem is the foreign element; and in another paper I read of some prominent jurist, or wealthy philanthropist, who was a poor immigrant only a few years ago. In a magazine article, a social worker writes that crime is largely a

matter of environment, and in another magazine I read an article by a teacher who says that education is the one sure cure for crime.

I open my mail, and in one letter I am asked, "Can criminals be reformed?" And in another one, from Sweden, "Are Sing Sing prisoners allowed the use of knives and forks?" A visitor drops into my office and asks me confidentially, "Is dope given to a man just before execution?" And a few minutes later, a stranger calls up on the 'phone and asks, "How many atheists have you in Sing Sing?"

Now crime has been the theme of more books than any other subject excepting, perhaps, love, but I believe that less is known about it than about any other important matter. And crime is important—one of our greatest national problems, considered from the standpoint of either ethics or economics. There are right now in the prisons of the United States approximately 125,000 men, or the same number of men that are in our country's standing army. More than 15,000,000 of our people have been arrested one or more times for some violation or the other, and more than 5,000,000 of these have at one time or another been in some jail or prison.

Ask ten men you meet on the street the cause of this stupendous amount of crime and you are likely to get ten different answers. Ask, then, for a remedy, and you will get ten different suggestions. How is it possible that there should be such a divergence of opinion?

The answer is that each is looking at the matter from a different angle.

Ask a postman, an iceman, and a furnace-man to tell you about the family that lives on the corner down the street from you, and you will get three different opinions: the first based on what the postman sees from the front door when he delivers the mail; the second, from the back door where the iceman fills the refrigerator in the kitchen; the third, from the basement, where the furnace-man stokes the fires. You will learn something from each of them, of course, but you will not know much about what goes on inside the house until you have talked to the maid.

There have been some excellent books on crime and the criminal written from the "front" of the problem by sociologists; some from the "rear" by jurists; some from the "cellar" by former prisoners. In this book, I am trying to tell just what I have seen on the inside. The sociologist sees the criminal as the product of our social organization; the jurist sees him as a man who is wilfully perverse; the ex-prisoner sees him as the under dog; I see him as a *man* in prison. I live with this man; I eat with him; I talk with him; I read his mail; I supervise his visits; I know what he reads; I am with him when he is sick; I know how he bears up under sorrow; I see him as he goes to his death. . . . I believe I know him and understand him as few others do, because they have seen or heard only one phase of his life.

The public attitude toward the criminal reminds me of an incident that happened in connection with an examination that was being given for health inspector in New York City a few years ago. A young Irishman who was taking the examination was asked, "What are rabies, and what can be done for them?" His prompt answer, given with the assurance that a man has when he knows he is right, was: "Rabies are Jewish priests, and you can't do a damned thing for them."

As a schoolboy I learned that the first step toward the solution of a problem in arithmetic was a clear understanding of the terms of the problem. Of course nothing can be done for rabies unless we know what they are and their cause and effects. In my judgment, the real facts involved in the problem of crime and the criminal have been greatly obscured by prejudices based upon ignorance and precedents established at a time when even intelligent men believed in witchcraft, the divine right of kings, and other similar notions that have long since been exploded. No wonder so little progress has been made in the handling of the criminal problem.

This book has been written primarily in the hope of outlining the main features of the crime problem as a whole and detailing some of the principal factors. I have no pet theories to propagate, but merely present the facts as I have seen them and studied them while warden of Sing Sing.

If the facts seem in certain cases to imply criticism,

I hope that the reader will understand that my purpose is primarily constructive and not destructive. It is human to err, and, as laws are made by humans, justice dispensed by humans, and prisons run by humans, it is inevitable that there will be inequalities amounting in some instances to injustice. The fact, however, that errors are unavoidable does not excuse the perpetuation of them when they are shown to be such simply because of established precedent or prejudice.

If, in some instances, the facts I have given about prisoners contradict popular notions drawn from fiction or sensational newspaper stories, this is because I have had the opportunity to observe the prisoner at first hand and as he really is. It is not strange that I should have found him to be human—the prisoner has his faults of which everyone knows, but he also has virtues for which I have endeavoured to give him his due.

"If I had but one prayer to make, it would be: Good God give me to understand," says John Galsworthy in one of his plays. To those who seek understanding I respectfully offer this book.

L. E. L.

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I

CRIME—WHAT IS IT?

Cain murdered his brother Abel; Abraham married his half-sister and was the father of the children of his wife's maidservant; Lot, drunk with wine, committed incest with his two daughters; Jacob, with the connivance of his mother, defrauded his brother, and his wife Rachel stole from her father; Solomon was an arch polygamist; David committed adultery with the wife of a trusting friend and had him placed in the front battle ranks so that he would be killed.

These acts and many others spoken of in the Bible would be crimes to-day, but in early Biblical times they were not.

George Washington made both beer and whisky on his plantation; Thomas Jefferson bought and sold slaves; Aaron Burr killed Alexander Hamilton in a duel; General Grant gave General Sherman a barrel of choice whisky; Grover Cleveland caught fifty-seven bass in one morning; Theodore Roosevelt killed more than one hundred wild ducks in a single day's hunt.

These acts, which would be crimes under the laws of to-day, were not crimes when committed.

A woman who now refuses to wash the clothes of a soldier would not be committing a crime, although such a refusal would have been a punishable crime in certain colonies during Revolutionary times. Owing to the recent repeal of a prohibitory law, one may now smoke a cigarette in a certain Western state without committing a crime, but it is a crime to smoke a pipe in a public place in another Western state. In a leading Southern state a man commits no crime if he kills another man caught in the act of adultery with his wife, but he is guilty of a crime if he assaults and maims the adulterer without an expressed intent to kill him.

If a man, while leaving the scene of the robbery, accidentally kills with an automobile the man he has robbed he would, under the laws of the State of New York, be guilty of murder in the first degree; otherwise, this accidental killing would not have been a crime. If a woman should, at a public gathering, defame another woman by untrue and scandalous statements, she cannot be prosecuted for a crime; but if she should write one of the same statements on a piece of paper and hand it to another person she could be convicted.

A man who, in anger, hits another man with a hammer commits a crime, but if, no hammer being available, he should use a rolled-up newspaper instead, there would be no crime, A contractor may, with full knowl-

edge of the statistical certainty that several men will be killed, plan and carry out the construction of a sky-scraper and commit no crime in connection with the deaths of the labourers. If, however, this same contractor, while dazed with bootleg liquor, should run over and kill another man with an automobile he could be convicted of the crime of manslaughter.

One may violate all but four of the Ten Commandments and commit no crime, or one may faithfully keep all of the ten and commit a hundred crimes calling for imprisonment. One may be contemptible, vile, and ignoble in almost every act of his life and commit no crime, or one may by a generous, noble, and worthy act commit a crime carrying a prison penalty. Many acts now regarded as criminal were formerly hailed as heroic.

Murder was not a crime among ancient civilizations that rival by comparison the highest civilization of to-day. Even now murder is not a crime among more than half of the world's population, nor are incest, rape, bigamy, etc. There is not and never has been a universal crime. Theft became a crime long before murder and still calls for the death penalty in some countries. What would seem at first to be paradoxical is a fact: those nations where crime is low are, without exception, backward and comparatively uncivilized; while those in which crime is highest are most progressive and have the highest civilization.

What, then, is *Crime?*

Crime is nothing more nor less than an act which violates the law.

Crime is not inherently a sin, nor is it necessarily immoral. To help a slave escape into Canada was, prior to the Civil War, a crime, but it was not a sin. To fish on Sunday is, from some religious points of view, a sin, but it is not a crime in most states, unless the Sunday should be legally out of season. It is immoral to lie, but it is not a crime unless done while under oath. It is not immoral to violate a bad law, but it is a crime.

Without *law* there would be *no crime* in the strict sense of the word; and the use of the word "crime" in any other relation is incorrect. Nor is it permissible to reserve the word "crime" for application to major offences, or felonies, as distinguished from minor offences, or misdemeanours. Any violation of the law, either by commission or omission, is a crime both technically and logically. The theft of one dollar, for example, involves identically the same essential elements as the theft of $10,000, and both are, under the law, crimes.

Crime cannot, therefore, be considered apart from the "letter of the law."

What, then, is *Law?*

Is *law*, as is rather generally assumed, a principle of action mysteriously perfect, handed down to a people by an inspired lawmaking body? — This law-making body usually is composed of a group of fledgling lawyers

with a sprinkling of small merchants and farmers from the famed "forks of the creek" thrown in for good measure.— Or is law, at its very best, merely an expression, put into statutory form, of the opinions, prejudices, hysterias, customs, fears, and selfishnesses of the people as a mass?

The practice of witchcraft was once forbidden by law because the people in their ignorance believed in witches. Incidentally, many laws enacted by lawmaking bodies, who believed in witchcraft, remain on the statute books of several Eastern states to this day. In some of these states it is still nominally a crime not to go to church on Sunday, or for the "Missus" and sister to wear knickers. If this strikes you as funny, consider the law of a certain Western state requiring hotel bed sheets to be not less than six feet in length, or laugh off, if you can, laws that prohibit the sale of gasoline on Sunday and the prescription of a teaspoonful of whisky for a child dangerously ill with pneumonia. Idaho has a law prohibiting the purchase of chickens between sundown and sunrise without first notifying the sheriff.

Not only does the law vary in what is forbidden or commanded in adjoining countries, but it differs widely in adjoining states and counties and in towns in the same county. A crime in New Jersey may not be a crime across the Hudson River in New York, and vice versa, and a crime in New York City may not be a crime in Albany or Buffalo. An act forbidden by the code of

one state or city may be commanded in another. Many acts that are crimes in England are not crimes in the United States and France and, of course, vice versa.

Not only do various codes vary widely in acts that are classed as crimes, but laws within the same codes often contradict each other in essential respects. New York State, for example, enacted in 1926 two laws, one of which provided a life sentence for fourth offenders, while the other provided a penalty of only twenty-five years if the fourth offence was committed while the offender was armed. The inconsistency was first discovered by prison officials and has since been corrected; under the law, as now written, the fourth offender who uses a gun should receive a natural life sentence with five years added for the gun!

Laws are frequently so ambiguous that it takes a decision of the Supreme Court of the United States to decide just what they mean, and these decisions are seldom unanimous. The two New York State laws relating to robbery and burglary were introduced and enacted at the same time. From their wording it is manifest that it was intended that the minimum penalty for robbery, first degree, should be fifteen years, or the same as for burglary, first degree. Owing, however, to the omission from the law relating to robbery of four words which are found in the law on burglary, the minimum for robbery, first degree, can legally be set as low as one

year. The practical effect of such a law is that of two men equally involved in the same robbery but tried before two different judges, one may receive a minimum sentence of fifteen years at the hands of a judge who has not discovered the omission of the four words, and the other a minimum sentence of one year from a judge who noticed the omission. Some judges who have been on the bench for years average around 10 per cent. illegal sentences, apparently because they do not understand the provisions of the laws.

It not infrequently happens that laws are little short of absurdities. New York had, until comparatively recent times, a law that made an attempt to commit suicide a felonious crime. It is estimated that 50 per cent. of the criminal laws of to-day would have been regarded as approximating absurdity fifty years ago, and hundreds of the criminal laws of one hundred to three hundred years ago seem absurd now. English laws at one time forbade buying grain and other foodstuffs with an idea of selling them at a profit and prescribed death as a penalty. In Connecticut, at one period, any person who would "deny God or His attributes" could be put to death. Laws that were in force in the United States during the recent World War are now regarded as having been unnecessary and in many instances ridiculous.

How many people know that the writing of a check for less than $1 is a crime carrying a penalty of im-

prisonment? Section 178 of the United States Penal Code reads:

> No person shall make, issue, circulate, or pay out any note, *check*, memorandum, token, or other obligation for less than $1, intended to circulate as money or to be received or used in lieu of lawful money of the United States, and every person so offending shall be fined not more than five hundred dollars or *imprisoned* not more than six months, or both.

This law is violated nearly every minute of every day and especially by large corporations and banks. Has the reader never violated this law?

In the matter of penalties, criminal laws vary almost infinitely. In New York the minimum penalty for burglary, first degree, is imprisonment for fifteen years, and the minimum for rape, first degree, is one year. In Texas the minimum for rape, first degree, is fifteen years and the minimum for burglary, first degree, two years. In New York the maximum for rape is twenty years, a penalty which is rarely given, although the crime is comparatively common; in Texas the maximum for rape is death, and this sentence is often inflicted.

The minimum for forgery, first degree, in the State of Washington is six months' imprisonment and in Missouri ten years. On the other hand, the minimum sentence for assault, first degree, is five years in Washington and only two years in Missouri. The lawmakers of Illinois, in their wisdom, fixed a minimum of one years' imprisonment for burglary, first degree, but the lawmakers of New York, working with a different

brand of wisdom, have fixed the minimum for this crime at fifteen years.

The maximum penalty for incest in Delaware was, until a few years ago, a fine of $100 and in Virginia, six months' imprisonment; but in Louisiana, the minimum is life imprisonment. Larceny in Connecticut carries a penalty four times as great as that for forgery, but in Kansas the penalties are exactly reversed. The lawmakers of New Jersey rate adultery as a felony but the lawmakers of New York rate it as a misdemeanour.

Which of the various lawmaking bodies is right? Some are unquestionably wrong, since crimes do not vary in inherent qualities as one passes across a boundary line from one state to another. It would appear that someone has been doing some "tall guessing" in this very important matter of providing proper penalties.

The severe penalties in some laws defeat the purpose of these laws, just as an overdose of medicine harms rather than helps. Death by hanging was once prescribed as the penalty for forgery in England, but the bankers of England, finding that forgery was increasing, owing to the fact that juries would not convict, petitioned Parliament to reduce the penalty to imprisonment. Several times recently in New York State juries have refused to bring in convictions on a plain set of facts, apparently because they regarded the only penalty provided by the law as too severe.

Judges, too, have found ways of evading provisions

of laws whose penalties they regarded as too severe, with the result that one man, who comes before a lenient judge, receives a light sentence, while another man, who is unfortunate enough to come before a judge who follows the "letter of the law," receives a severe sentence. Is it not clear that such injustice makes for the prevalent disrespect of law?

Not only do the laws differ in the penalties provided, but judges apply them in varying degrees. Some judges are uniformly severe, inflicting the maximum penalty, others uniformly lenient, giving the minimum sentence. Some judges give the maximum for such crimes as robbery and burglary, and the minimum for rape and incest. Some uniformly give the maximum penalty to an offender with an Irish name and are lenient to the Jew, and vice versa. The man who is so unfortunate as to have his case receive wide newspaper notoriety is certain to get a heavy sentence from almost any judge, while those whose more heinous crimes did not break into the newspapers often receive light sentences.

These facts are demonstrated in a study which I have made of the sentences of all judges in the Sing Sing district during the last twenty years. I found that while one judge would inflict an average minimum sentence of 5 years for larceny, first degree, in the same county another judge's sentences averaged only 1 year for the same crime and degree. One judge's minimum sentences for robbery, first degree, averaged 26 years, eight

months, while another judge's averaged only 2 years for the same crime and degree. One judge's sentences for forgery averaged 5 years and for rape 1 year, while another judge's averaged 1 year for forgery and 5 years for rape. Of four men who in confidential capacities stole approximately the same amount of money, one received a suspended sentence; the second, 1 year; the third, $2\frac{1}{2}$ years; the fourth, 5 years. None of them had previous records, and of the three who have come under my personal observation I would say that, if there is any difference in them, the one who received a sentence of one year is the most criminal in his inclinations and most likely to become a second offender.

It is rather a general assumption that all criminal laws are based upon a fundamental principle of "right" —that what is forbidden by law is wrong and what is commanded is right, and that a violation of law involves moral turpitude.

There is, however, nothing inherently right or wrong in law, and a violation may, and often does, involve a high degree of moral rectitude. Acts that under the law constitute larceny may not involve any wrong in a moral sense. There is, in fact, not a major crime, with the exception of rape, sodomy, and bribery, for which I cannot cite many instances where more moral rectitude than turpitude was involved. On the other hand, many acts involving moral turpitude in the highest degree are not crimes.

The simple truth of the matter is that most criminal laws are enacted to meet the *convenience* rather than the *conscience* of society, which doesn't in reality give two whoops about the ethics involved. This is demonstrated by the fact that a nation (a society) may with impunity commit murder by wars waged with premeditation and in the interest of gain and aggrandizement. The larger nations have, without exception, appropriated to themselves the lands of smaller nations and committed other acts which would be crimes if done by an individual. Large corporations and wealthy individuals accomplish, through indirect methods made possible by their money and power, things that cannot be achieved by their poorer fellow men without direct methods that violate the law.

The young bandit preys for the most part upon the wealthy who can afford to lose, accomplishing his purpose directly, but crudely, with a gun. A certain type of financier, that is all too common, preys for the most part upon the aged, widows, and orphans, who can ill afford to lose, robbing them of their savings either through promotions or, quite as often, by wrecking the financial structures of railroads or other companies in whose securities the victims have invested their savings. The wrecking is accomplished by artificially depressing the value of the company's securities by calling loans, initiating rumours of unfavourable legislation, etc. The stockholders having been eliminated by these methods,

the company's properties are then bought in for a song and rehabilitated to the profit of the financier and his clique.

One is a crime; the other, as carried out, is unfortunately not. Write your own moral.

Some newspapers play up the young robber in sensational style, regale the public with stories and pictures of him, drag in innocent relatives and friends, and later write editorials complimenting the "two-fisted" judge for giving the "Baby-faced Bandit" a sentence of forty years. Meanwhile they are, unknowingly but nevertheless effectually, aiding the nefarious scheme of the financier footpad by publishing his skilfully veneered propaganda, and later, after he has made his haul, he will be given credit for his "financial skill" in rebuilding the X. Y. Z. R. R. Co., and is likely to be editorially mentioned as fit timber for Congress or an ambassadorship.

Law and *right* and *justice* are unfortunately synonymous only in the abstract and not in practice. A great wrong can be and often is done under the protection of the law and justice under the law is frequently the rankest injustice. This seemingly paradoxical situation is due to the fact that our laws, as a whole, are a sort of "conglomeration of non-stick-togetherness," an antiquated relic of the past from which some parts have been taken and to which some ill-fitting patches have been added here and there.

Dean Roscoe Pound of Harvard University expressed

the point I would emphasize when he said, "There is no one thing in all the departments of government or business that is carried on with less scientific or orderly method than the making of laws." I would add that this arraignment is particularly true of our criminal laws.

Legislators, as a rule, have little or no knowledge of the great fundamental problems involved in crime. They seem unable to formulate correctly a law from the standpoint of social and economic perspectives, and they seem to care little whether or not the penalty provided is a proper one.

Recently there has been a tendency to revise all penalties by increasing them, in the face of the fact that long and severe penalties, indiscriminately applied, have been tried and found wanting in the past. No one seems to have taken the trouble to consider the facts made plain by history or to consult leading criminologists. And in all the mass of laws being turned out, one looks in vain for any constructive law directed at causes and prevention or any fashioned with a view of correction and reformation.

In a comparatively few isolated cases an exceptional legislative body sensed something of the situation and has made an effort to enlighten itself on some of the more obvious phases of the crime problem. Unfortunately, however, the commissions that have been appointed have been composed for the most part of members whose chief experience and knowledge were along

political rather than sociological or psychological lines. Moreover, these commissions have been seriously hampered with legal restrictions and their final reports, even when good, have become lost in the huge grist of statutes which the average legislature hurriedly passes upon.

The patching of a law here and there is at best makeshift practice and leads to endless confusion. The entire criminal code needs to be re-appraised and built up law by law, starting on a foundation of causes and rising through prevention, correction, and reformation to punishment, which is important but should be made a final resort rather than a first aid. The whole body of criminal law needs revision both in *expression* and *principle*. Laws should be made so that they will function along common-sense lines rather than along technical lines understood only by lawyers and judges. Really effective laws would and should reach 98 per cent. of those who commit crimes instead of only about 2 per cent.

In the unscientific, illogical, and impractical criminal code of our present legal system, the factors of culpable intent and responsibility are not properly evaluated. A man who shoots at another man with full intent to kill but fails because of poor marksmanship is at heart, and except for chance, as much of a murderer as the man who hits the mark. A man who fails in an attempt to steal something of value is as much a thief in all

essential respects as the man who succeeds. Is it logical that a man who intended to steal valuable jewellery but got only the worthless Woolworth variety shall in effect be rewarded with a light sentence because he failed of his purpose? If imprisonment is in reality an effective reformative and corrective, and I emphasize the *if*, shouldn't it be applied just as liberally to the man who intended to steal something valuable as to the man who actually succeeded?

We are wiser in the realm of disease and medical practice. The typhoid or diphtheria carrier is not punished for his condition, but is segregated and kept segregated until his condition is corrected, and released only when he is no longer a menace. We vaccinate against smallpox and inoculate against other diseases as a matter of prevention. Why wait until crime is actually committed and then swoop down in vengeance? We guard our water and milk supply against typhoid and other contamination. On the other hand, we permit conditions to exist which supply our young men with bootleg booze, firearms, and the temptation to use them; and seem surprised that crime should be the result.

Justice Holmes of the United States Supreme Court has said: "Laws should draw their postulates and justification from science. As it is now, we rely upon tradition or vague sentiment or the fact that we never thought of any other way of doing things as our only warrant for laws which we enforce with as much con-

fidence as if they embodied revealed wisdom. Half of the criminal law does more harm than good." When our criminal laws are formulated along scientific and practical lines, we shall have opened up the way leading to a solution of the crime problem. Until this is done, all of the efforts of our judges, prosecuting attorneys, peace officers, and great prison systems will be powerless before the tide of crime that confronts us.

Let us have laws, yes; but let them be laws founded on the solid rock of right and justice; laws that can be understood and respected by all; laws that are workable and effective; laws that are directed at causes rather than only at results; laws that will apply to the rich as well as to the poor and friendless; laws that are humane and adjustable.

II

THE CRIMINAL—WHO AND WHY?

Who is the criminal and why?

This "double-barrelled" question evokes in the minds of most people a man with a receding forehead, low beetled brow, furtive eyes, cruel, tight-lipped mouth, protruding jaw, large flapping ears, huge torso, long hairy arms and legs—a sort of human monstrosity with whom crime is instinctive; a born criminal.

Is there such a person in reality? In twenty-four years of prison experience in which I have come in contact with more than thirty thousand convicted men I have never seen a prisoner who fulfilled this description.

And yet, I read recently of a supreme court judge of the State of New York who was quoted by the newspapers as having stated that there were eight physical characteristics that marked the criminal, to wit: "receding chin, protruding jaw, wide unwinking stare, droop in the left eyelid, low brow, bumpy brow, thick hair, and ears set at right angles to the head." He said also that where as many as four of these characteristics were present in an individual there could be no doubt as to the man's criminal nature.

A half dozen well-known men, who have at least five

of the eight physical characteristics named, include the president of a leading American university, a great English preacher, a French general, a Russian statesman, a leading Spanish writer, and one of the world's greatest inventors. I could not help but wonder as I read the judge's list of characteristics whether he had ever checked them on his fellow members of the bench and bar.

The judge was further quoted as saying "If you see a man with a drooping left eyelid or with wide-open stary eyes, beware of having your pocket picked." In other words, by the judge's simple system, one can, not only recognize the criminal by sight, but also determine at a glance whether one is going to be murdered or only have his pockets picked.

That a misshapen body betokens a warped criminal mind is a fallacious assumption, which dates far back into ancient history. Many peoples, notably the Spartans, destroyed all babies whose bodies showed any marked physical imperfections, and it is recorded that the Athenians marvelled at the seeming contradiction of Socrates's grotesque body and perfect mind. True, he was later convicted and put to death for the crime—a violation of civilized Athens' law—of teaching that there was but one God.

The notion that the physiognomy of a man indicates the nature of his mind and moral attributes reminds me of the darky, who sagely observed, when a phrenologist

offered to "feel" his head for him, that he, himself, had never been able to tell how many hams there were in a smoke house by "feeling ob de roof."

The idea of the born criminal, foredoomed to crime by his physical make-up, was elaborated into a theory by Lombroso, a physician in a small Italian prison. This, however, was quickly exploded by Dr. Charles Goring, who, using the same methods, examined an equal number of English convicted criminals and non-criminals and found as many of Lombroso's physical stigmata in one class as in the other.

It is now known to all leading scientists, sociologists, and criminologists that lawbreakers are just as normal or abnormal as those who keep the law; that the "born criminal" type does not exist and never has existed. The myth of the born criminal, however, persists because it appeals to the public's imagination and has been popularized by fiction, by the stage and screen, and by the cartoonist's pen. Show me an American who looks like Uncle Sam or an Englishman who looks like John Bull and I will grant the possibility of finding a man who looks like the so-called typical born criminal.

A correlative theory to that of Lombroso's admits that there is little or no significance in the physical characteristics but holds that the criminal has distinctive inherited mental characteristics which he betrays in a "penchant for gambling, taste for strong drink, use of slang, vanity in dress, love of animal pets, desire for

easy money, aversion to hard physical labour," etc., *ad nauseam*. This, as the Irishman remarked, "takes in a lot of territory"; in fact, so much that there are very few people who would belong in the non-criminal class if judged by these characteristics. One might add equally significant (?) facts which are that criminals like ice cream, wear neckties, and prefer shower baths to the tub.

The theory of criminality upon which most of the criminal law and practice of to-day is based is fundamentally religious and quasi-philosophical in principle and assumes that all men, despite any physical, mental, and environmental differences, are equally able to distinguish between right and wrong and should, therefore, be held equally accountable to the law.

This theory falls down in important respects. Right and wrong in a religious and moral sense are not identical with right and wrong in a lawful sense—a "right" act morally may be a "wrong" (criminal) act legally and, of course, vice versa. Moreover, the insane, feeble-minded, and ignorant are often not able to distinguish clearly between right and wrong in either a moral or legal sense. I quote the words of James Foley:

It ain't so far from right to wrong; the trail ain't so hard to lose.
There's times I'd 'most give my horse to know which one to choose.
There ain't no signs or guide boards up to keep you on the track.
Wrong's sometimes white as driven snow and right looks awful black.
I don't set up to be no judge of right and wrong in men.
I've lost the trail sometimes myself; I may get lost again.

There has been in recent years a tendency to overemphasize the part that insanity, feeble-mindedness, and ignorance play in criminality. These are merely possible factors and not intrinsic causes of criminal action because there is no disputing the fact that the great majority of each class are no more criminal than the intelligent and well educated.

Officials of the great surety companies find from experience that "nine out of ten men are potential criminals" and declare that women are more honest than men. On the other hand, the heads of great department stores state that the majority of people are honest and that nine out of ten thefts are committed by women. Hotel officials say that both men and women guests steal everything that is loose, from towels up and down. Doctors state that they find evidence of sex immorality of a criminal type in a large percentage of their patients, and newspaper men know that they must publish racing schedules, charts, and betting prices because "their public" gambles on the races, although such gambling is criminal and publication of these facts makes more criminals.

In other words, the popular criminal theories, consisting of a curious mixture of contradictory ideas, ancient and modern, religious and sociological, philosophic and scientific, *do not square with the practical facts.*

What is the explanation of the contradictions?

Two men were passing a circus picture showing the performer holding the jaws of a lion open with his hands,

and one said to the other: "Look what power a man has over such an animal as a lion." "Yes," replied the other man, "but suppose that picture had been painted by a lion, instead of a man, what would it show?" That is to say, a great deal depends upon the point of view.

What is the correct angle from which to approach this question of The Criminal—Who and Why?

Law determines crime. There would be no crime without law and, by the same token, no criminal without law.

A criminal is, therefore, anyone and everyone who commits an act forbidden by law or omits an act commanded by law.

Anyone who steals, be it a five-cent apple or a fifty-dollar bill, a watermelon or a car, a handkerchief or a fur coat, has committed a theft and is, in the real sense of the word, a criminal, regardless of whether or not he or she is ever tried and convicted, just as much as the man who commits a murder is a murderer and a criminal even if never apprehended and convicted.

When a man is convicted of a crime he becomes a *convicted* criminal but aside from this fact he differs not a whit from the man who commits a crime for which, for one reason or another, he is never called to account. This picture, painted from the "lion's point of view," may be shocking to the sensibilities of those who prefer to call a spade a "digging implement," but it is none the less true—a violation of law is crime and a violator of law is a criminal.

I have discussed this point pro and con with hundreds of prominent men. Most of them when pressed for an answer have admitted that at one time or another they had violated laws (committed crimes) which would have resulted in imprisonment if they had been prosecuted for them. Some even admitted a sufficient number of violations to bring a life sentence under the law as it now applies to fourth offenders.

The few who would not admit the commission of a crime conceded that they could imagine conditions under which they might commit a criminal act. The poet Goethe is said to have stated that he had never heard of a crime that he could not conceive of himself doing under certain circumstances. President Rutherford B. Hayes said:

> We would like to disown our common humanity with the downcast. We are apt to thank God that we are not like other men, but I can hardly recall a case where I did not feel that I might have fallen if I had been subjected to the same influences and temptation.

The plain fact of the matter is that every man has his breaking point. It is all a matter of effective temptation. Adam succumbed to temptation despite a perfect heredity and ideal environment. Can we expect more of modern man with an imperfect heredity and inferior environment?

The breaking point of one man may be higher than that of another owing to conditions beyond the control of either. The man who inherits a fortune has no tempta-

tion to steal or rob. The man who is happily married is not likely to commit bigamy, etc. The man who dislikes the taste of liquor deserves no special credit for being a teetotaler.

Crime is not peculiar to a certain specific type of man. All mankind is potentially criminal under certain circumstances and conditions. Most men stumble and many fall. Several Presidents of the United States are known to have committed adultery, and there are instances of larceny, probable murder, and a bigamous marriage. Even the bluest of blue bloods cannot trace their ancestry very far back without encountering the gallows or a prison, and all of us, if we will go far enough back, will find a common ancestor in Cain, the fratricide. That there is "a skeleton in every family closet" is 99.9 per cent. true.

In every community are respected men whose wealth has been the result of a lucky gamble which was more or less illegitimate and criminal in all essential respects. Many an honoured financier has made his success by blackjacking competitors and bribing public officials. Such men of the upper world are as criminal as the blackjacking thugs of the underworld.

Now the fact that under certain conditions crime is largely deterministic doesn't constitute a valid excuse for crime nor absolve the criminal of responsibility. Man is, in the matter of conduct, like a horse tethered by a rope. The length of the rope absolutely determines and

limits the area of his action but within this space his actions may be freely chosen—there is freedom within certain fixed limits. The "rope" of a man's heredity, environment, education, etc., limits the area of his action, but he is responsible for his choice of conduct within this area. Only rarely is this rope so short as to limit his choice to criminal conduct.

Quite aside from the matter of individual responsibility is the practical consideration of the protection of organized society, whose rights and needs are above those of the individual. Society, however, in attempting to adhere to a jumble of theories, some of which have been exploded or discredited and others of which are only "half-baked," complicates the criminal problem and, worse yet, actually produces most of its criminals. Crime, as everyone knows, is general, but, hampered by an antiquated system, society succeeds in bringing only a small number of violators before the courts, and only a small percentage of these, the "small fry," are convicted. The New York State Crime Commission found that there were 19,468 arrests for felonies in New York City in 1925. Of this total, only 5,622 were indicted and only 1,178 were committed to Sing Sing.

Robert Quillen neatly satirizes the situation in the following:

> Long years ago, when everybody in the jungle trusted one another, there were no thieves except the rats. One day the lion, who was king in the jungle, passed a law requiring that all convicted

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This hard structure, within the outer walls of the prison, is the old cell block where most of the prisoners are housed.

thieves should be hanged to a hickory limb. The rats kept on stealing, of course, but those caught and convicted were hanged before the assembled jungle folk, and everybody felt avenged and complacent, for a rat didn't amount to much, anyway. Time went on and then one day the kite brought the king a bit of information, which gave that worthy the shock of his career. The fox had been caught stealing grapes in the bear's back yard. Well, law is law, and there was nothing to do but have the fox arrested and bring him to trial. The fox had experts to testify that he was absent-minded about other people's property. Character witnesses testified that he lived in a good house and belonged to all the best clubs and had three fat geese at home. That settled it, of course, and the king scratched his head and said: "I have no doubt he took the grapes, but that law about stealing was made for rats, and he is a fox. We can't hang a fox. It just can't be done." All of this happened long ago, but the effect of it is evident still. Nothing is safe in the jungle, and the best families take what they can get by such means as may be necessary.

Society not only fails to catch and convict the "big fellows" who too often set the example or provide the incentive for the "little fellows," but it blunders inexcusably in its handling of the convicted criminals. Some it kills according to the old rule of "an eye for an eye," the others it punishes with imprisonment, varying the dose according to the crime and at the whim of a judge who often knows little of practical penology. No concerted effort is made either at prevention or correction, and the result is that new criminals are being continuously created and the old ones made worse by unwise and, often, unjust treatment.

There will, of course, always be crime because there will always be laws to violate; there will always be crim-

inals because there will always be men and women who will violate them. There is nothing mysterious about crime—the germ of crime is universal; criminality has its sources in the human impulses of mankind, which are neither good nor bad in themselves but are so only in relation to other things.

These and other *facts* must be faced and the whole problem approached along practical lines as one does a business problem. Causes and cures must receive first consideration and emphasis, and not theories and precedents, dating back hundreds of years to a time when men believed in the divine right of kings, witchcraft, etc., and executed animals for crime. As an example, a hog which had killed a child was sentenced as follows: "The Court in detestation and horror of this crime and in order to make an example and satisfy justice, has declared, judged, sentenced, pronounced, and appointed that the said hog, being detained a prisoner and confined with other animals in the jail, shall be by the executioner strangled and hanged on a gibbet near and adjoining the gallows." Who will deny that similar foolish notions are at the bottom of many of our laws and much of our criminal and penal procedure to-day?

The born criminal of popular imagination is a myth but the violation of law is a fact. Those who violate the law, regardless of whether they are ever apprehended and convicted, are criminals—yes, just that; if the shoe fits it must be worn.

III

SING SING PRISONERS—PAST AND PRESENT

Beneath a high bluff, thirty miles up the east bank of the Hudson River from New York City, where the Sinck Sinck Indians built their signal fires three hundred years ago, there stands a long boxlike building of rough gray stone—Sing Sing's cell block. There is no hint of architectural refinement in the ugly walls and low roof; there is only harshness that seems to reach out and grip one with ghastly hands, a coldness that hovers like a pall, and a heaviness that presses down upon the spirit like a huge millstone.

Here in little cubbyholes of cold stone, locked away from the free world by doors and bars of hardest steel, more than sixty-thousand men have paid with pain and in sorrow the penalties which an avenging society exacted of them for their transgressions of its laws. For most of them there came at last a day of freedom, but there were others whose "bits" ended atop the bluff just outside the walls in Gallery No. 25—the prison graveyard.

What manner of men were these prisoners? What were their crimes?

These questions are answered in part by the prison

records which are fairly complete, as such records go, for the 55,000 men received since 1849.

Sing Sing Prison, originally called the Mount Pleasant Prison, is historically the third in order of New York's state prisons, the first having been Newgate Prison, located in New York City, built in 1796–1797, and the second, Auburn prison, located in Auburn, built in 1816–1821. The construction of the Sing Sing cell block, which was built entirely by prisoners with stone taken from the prison quarry, was started in May, 1825, and completed in 1828.

In the century that has followed, Sing Sing Prison has received more than 70 per cent. of all men committed for felonies in the entire state. Incidentally, the population of the counties comprising the Sing Sing district has averaged about one twentieth of the whole United States. Sing Sing is, therefore, probably the most truly representative, as far as its prison population is concerned, of all American prisons; and it may be regarded as equally representative of all the world's great prisons.

The first point of general interest concerns the number of men committed to prison in former years as compared with later periods. Beginning with the year 1850 and continuing by decade years, the prison admissions have been as follows:

1850	*1860*	*1870*	*1880*	*1890*	*1900*	*1910*	*1920*	*1927*
237	407	526	814	812	716	1012	1271'	1196

Apparently these figures support the popular belief that crime has been increasing, but by calculating the number of men commited for each 100,000 of the total population of the Sing Sing district at each period, I arrive at the following figures:

1850	*1860*	*1870*	*1880*	*1890*	*1900*	*1910*	*1920*	*1927*
28	26	28	28	28	19	19	17	16

Actually, then, crime, in so far as felonies are concerned, has decreased rather than increased.

If criminals are "born" robbers, murderers, etc., as is very generally assumed, there would be about the same proportion of each over a period of years. An analysis of the commitment records of Sing Sing shows the following percentage figures:

	1850	*1860*	*1870*	*1880*	*1890*	*1900*	*1910*	*1920*	*1927*
Robbery .	.03	.03	.04	.03	.04	.06	.07	.13	**.24**
Larceny . .	**.49**	.38	.45	.42	.36	.34	.32	.27	.25
Forgery . .	.05	**.14**	.03	.03	.03	.03	.03	.03	.04
Burglary. .	.25	.30	.30	.34	**.35**	.30	.29	.22	.19
Assault . .	.04	.05	.05	.05	.10	.11	.11	**.12**	.09
Homicide .	.04	.04	.04	.05	.05	.06	.06	**.10**	.06
Sexual . .	.06	.03	.03	.03	.03	.04	.06	**.08**	.06

Robbery, it will be noted, jumped from 3 per cent. in 1850 to 24 per cent. in 1927; crimes against property (larceny, forgery, and burglary) declined from an aggregate high of 82 per cent. of the total crimes in 1860 to a low of 48 per cent. in 1927; crimes against person

(assault, homicide, and sexual) increased from an aggregate low of 14 per cent. in 1860 to a high of 30 per cent. in 1920. These variations can be explained only by such extrinsic factors as economic conditions, flow of immigration, war times, etc.

An English jurist was recently quoted by the press as saying that he had found most criminals to be of light complexion. So far as I know, no one has put this question of complexion up to a Spanish jurist, but it goes without saying that his answer would be exactly opposite. Inferences based upon such statements would be amusing except for the fact that they tend to perpetuate the idea of the criminal as a distinctive physical type.

It is quite common for a visitor who has made a brief and casual inspection of Sing Sing to remark that most of the prisoners are Italians and to conclude that here is where the crime problem should be attacked. The wife of a supreme court judge of New York, mistaking the Italians for Greeks, seriously observed that "the Greeks seemed to be a very criminal people." The fact that there are crime, prisons, and prisoners in countries that have neither Italians nor Greeks seems not to have been considered by the visitors.

This tendency to jump at conclusions from one or two facts has been at the bottom of much of the befuddling and muddling of the criminal problem. Men of considerable scientific attainment have even been led into false conclusions as a result of concentrating on and

amplifying a few facts, which, while possibly true for a given time and in a certain situation, are often untrue and misleading at another period and under different conditions.

Sing Sing has had in the hundred years of its existence prisoners of every leading nationality, the numbers of each varying more or less from time to time. An analysis of the percentage of foreign born among Sing Sing prisoners at various periods follows:

Year	*Total Foreigners*	*English*	*Irish*	*Italian*	*German*	*Russian-Polish*	*Negro*
1830	.42	.17	.40	.01	.06		.23
1850	.41	.16	.38	.02	.23		.06
1875	.40	.16	.33	.03	.28		
1900	.29	.12	.06	.35	.25	.04	
1927	.26	.12	.04	.38	.04	.18	

These variations from period to period were, of course due to the ebb and flow of immigration. Although it is quite generally believed that the foreigner is more criminal than the native born, a comparison of the percentage of foreign-born prisoners with the number of foreign born in the general population shows that this is not on the whole true. This fact will be amplified somewhat in later paragraphs.

Just as the foreign born of different nationalities vary from one period to another, so the stock of the native born varies as one generation succeeds another. The following analysis by periods corresponding to the foregoing table shows:

Year	*Total U. S. Born*	*Eng.*	*Irish*	*Ital.*	*Germ.*	*Jew*	*Russ. Pol.*	*Negro*	*Dutch*
1830	.58	.71	.05						.19
1850	.59	.54	.18						.12
1875	.60	.38	.27		.10			.06	.06
1900	.71	.21	.20	.11	.12	.05		.10	.01
1927	.74	.16	.14	.15	.13	.16	.05	.18	

These variations are, with the exception of the Negro, consistent with the population expectancy of the several periods.

Thus it will be seen that while criminality may on the face of the figures appear distinctive of a certain national stock at a given period, the apparent significance of the percentages disappears when considered within the range of a century. Crime is not, in the light of Sing Sing records, the peculiar and particular heritage of the foreign born or native born, of white or black, of Gentile or Jew, of English or Italian, of Irish or German, etc., except as it is related to other factors and conditions which will be disclosed in later paragraphs.

The reason that most of the studies of crime and the criminal have ended in blind alleys or fallacious and absurd theories has been that neither crime nor criminals have been properly differentiated into types and classes and studied separately. The situation is, in fact, analogous to the old ideas of disease and medicinal treatment.

Crime is of two main classes: 1. Predatory—against property; 2. Violent—against person. Crimes against property include larceny, forgery, and burglary. Crimes

against person include assault, homicide, and sexual. Robbery is a combination crime involving both larceny and violence. Crimes against public order are rarely felonies, and, in any case, fall in the miscellaneous class.

Those who commit crime also fall into various classes considered from the standpoints of: 1. Colour and nativity; 2. Racial and national stock; 3. U. S. and foreign born of the same stock; 4. Age; 5. Education; 6. Mentality; 7. Alcohol and drug addicts; 8. Physical condition; 9. Occupation; 10. Work habits; 11. Recidivism. Each of these I have analyzed with reference to the types of crime, with results as given in succeeding paragraphs.

Of a total of 5,000 men committed to Sing Sing during the period of 1923–1927, 4,097 were whites; 895 were blacks; and 8 were yellows. In terms of percentage, the white prisoners totalled 82 per cent. as compared with 97 per cent. of whites in the general population of the Sing Sing district, and the Negro prisoners 18 per cent. as compared with 3 per cent. blacks in this district. The yellows exceeded their pro rata, or expectancy, by about 100 to 1, although they comprise less than one sixth of 1 per cent. of the prison population.

If each colour had been represented exactly pro rata on the basis of the general population expectancy, there would have been 4,850 whites instead of 4,097; only about 150 blacks as compared with 895; and no yellows.

An analysis of the types of crime for which the whites

and blacks were committed, in relation to nativity statistics, follows: (Compare percentages with the general population expectancy.)

WHITES

	N. Y. City Born	*U. S. Born Outside N. Y. C.*	*Foreign born*	*Totals*
Pop. expectancy	.30	.32	.35	.97
All Crimes . .	.33	.23	.26	.82
Robbery . .	**.51**	.21	.16	.88
Larceny . .	**.38**	.20	.29	.87
Forgery. . .	.23	**.45**	.29	.97
Burglary . .	.30	.21	.25	.76
Assault . . .	.20	.08	**.37**	.65
Homicide . .	.27	.14	.30	.71
Sexual . . .	.11	**.38**	.26	.87

BLACKS

	N. Y. City Born	*U. S. Born Outside N. Y. C.*	*Foreign-born*	*Totals*
Pop. expectancy	.008	.015	.007	.03
Robbery . .	.01	.10	.01	.12
Larceny . .	.01	.11	.01	.13
Forgery. . .	.005	.02	.005	.03
Burglary . .	.02	**.20**	.02	**.24**
Assault . . .	.02	**.30**	.03	**.35**
Homicide . .	.015	**.21**	.045	**.27**
Sexual . . .	.01	.11	.01	.13
All Crimes . .	.015	**.14**	.025	**.18**

It will be noted that 51 per cent. of the prisoners committed to Sing Sing for robbery during this period were whites born in New York City, and that this percentage

is greatly in excess of the expectancy of this group. The percentages for larceny and all crimes also exceed the expectancy of this group, while forgery and sexual offences are the outstanding crimes for whites born in the U. S. outside of New York City, and assault and homicide are the leading crimes of the foreign-born white group. Forgery is the only crime in which the whites run true to their population expectancy.

The number of blacks committed exceeds their expectancy for all crimes except forgery, and is highest for assault, homicide, and burglary respectively. Blacks born in the United States outside of New York City exceed their expectancy for each type of crime, but notably so for assault, homicide, and burglary.

A percentage analysis of the national stocks (regardless of place of birth) in their relation to the various types of crime follows, the percentages of the Negro being repeated for ready comparison:

	English	*Irish*	*Italian*	*German*	*Jewish*	*Russ.-Pol.*	*Negro*
Pop. expectancy	.39*		.14	.15	.17	.06	.03
Robbery . .	.20	.14	.31	.12	.06	.02	.12
Larceny . .	.17	.12	.07	.13	.32	.02	.13
Forgery . . .	.20	.07	.07	.22	.35	.02	.03
Burglary . .	.08	.16	.13	.10	.20	.05	.24
Assault . . .	.04	.20	.21	.13	.02	.01	.35
Homicide . .	.07	.19	.28	.10	.02	.01	.27
Sexual . . .	.10	.10	.18	.20	.03	.20	.13

*U. S. Census does not differentiate.

In other words, 65 per cent. of those committed for robbery were of Italian, English, and Irish stocks; 62 per cent. of those committed for larceny were of Jewish,

English, and German stocks; 76 per cent. of those committed for assault and 74 per cent. for homicide were of Negro, Italian, and Irish stocks.

These figures would appear at first glance to justify the popular idea that there is "something in the blood" of the several stocks that determines the character of their criminality. If this were true, the United States born and foreign born of the same stock would of course commit the different types of crime at the same rate. The following analysis giving percentage figures, covers this point:

	N. Y. C.	*English*		*Irish*		*Italian*		*German*	
		U. S. (rural)	For.	U. S.	For.	U. S.	For.	U. S.	For.
Robbery	.39	.14	.24	.29	.13	.39	.25	.31	.12
Larceny	.20	.15	.32	.24	.27	.24	.14	.27	.27
Forgery	.05	.07	.06	.01	.01	.01	.03	.05	.08
Burglary	.14	.20	.20	.17	.14	.17	.07	.13	.11
Assault	.02	.08	.04	.11	.19	.09	.17	.04	.17
Homicide	.03	.09	.05	.07	.11	.07	.16	.05	.11
Sexual	.02	.13	.02	.02	.02	.02	.04	.05	.06

	Jewish		*Russ.-Polish*		*Negro*		
	U. S.	For.	U. S.	For.	N. Y. C.	For. (rural)	U. S.
Robbery	.28	.13	.25	.10	.17	.12	.14
Larceny	.38	.40	.24	.30	.17	.12	.16
Forgery	.05	.08	.02	.02	—.01	—.01	.01
Burglary	.22	.28	.20	.23	.32	.27	.25
Assault	—.01	.02	.03	.06	.11	.20	.20
Homicide	—.01	.02	.03	.06	.08	.15	.10
Sexual	.02	.02	.07	.14	.05	.06	.07

The percentage for robbery, it will be noted, is without exception higher for the United States born, especially New York City born, than for the foreign born

of the same stock; and just the opposite is true of assault and homicide. It is quite true that certain types of crime stand out in relation to certain stocks, such as larceny for Jewish and assault for Irish, but environment tends to bring the United States born over to the typical crime norms of New York City.

The relation between age and types of crime is shown by percentage figures in the following analysis of the age groups.

	Age 17–21	*Age 22–26*	*Age 27–31*	*Age 32–36*	*Age 37 and up*
Pop. expectancy	.13	.12	.12	.11	.26
Robbery	**.47**	**.31**	.11	.06	.05
Larceny	.09	.20	**.23**	**.27**	.21
Forgery	.03	.19	**.23**	**.28**	.27
Burglary	.11	**.30**	**.24**	**.20**	.15
Assault	.11	.21	**.23**	**.17**	.28
Homicide	.10	.20	**.25**	**.17**	.28
Sexual	.13	.16	.16	**.19**	**.36**
All crimes	.19	**.28**	**.21**	.16	.16

Robbery is the outstanding crime of the 17-21 year group, but this age is notably low for larceny and forgery. Sexual crimes are highest for the oldest group, and especially for those above forty-five years of age. The number of men in each group below thirty-seven years exceeds the general male population expectancy, but is probably not much higher than their pro rata in the labouring and non-skilled classes from which most of the prisoners come. The average age of the prisoners has not varied greatly at any time in the last hundred

years, and is now around twenty-nine years of age, just what it was in 1850.

The question as to the relation between education and types of crime is answered in the following percentage analysis:

	Illiterates, 1st and 2nd Grades	*3rd, 4th, and 5th Grades*	*6th, 7th, and 8th Grades*	*High School*	*College*
Pop. Expectancy	.10	.19	.57	.12	.02
Robbery	.07	.12	**.72**	.08	.01
Larceny	.03	.18	.53	**.21**	**.05**
Forgery	—	.08	.40	**.40**	**.12**
Burglary	.13	**.41**	.38	.08	—
Assault	**.39**	**.29**	.26	.06	—
Homicide	**.32**	**.36**	.26	.04	.02
Sexual	**.34**	**.30**	.30	.06	—

Note that 72 per cent. of those committed for robbery had a common school education and no more; of those committed for forgery 52 per cent. had a high-school or college education; of those committed for assault, homicide, and sexual crimes 68 per cent., 68 per cent., and 64 per cent. respectively had not progressed beyond the intermediate grades.

Intelligence tests given by psychologists have shown that Sing Sing prisoners as a group have a slightly higher rating than the draft army of the U. S. during the late war. Men committed for forgery, larceny, and robbery ranked in the order named, a few being of superior intelligence and 78 per cent., 68 per cent., and 65 per cent. respectively classed as normal. Approximately 55 per cent. of those committed for burglary,

61 per cent. for homicide, 64 per cent. for assault, and 72 per cent. for sexual crimes were of inferior intelligence.

The relation of some of the more common forms of mentality to the various types of crime has been worked out recently and may be summarized:

	1927 Average Expectancy	*Not Abnormal*	*Dull Normal & Borderline*	*Deficient*	*Psychopathic*	*Insane*
Robbery	.24	**.30**	.18	.15	.19	.10
Larceny	.25	**.31**	.22	.18	.15	.15
Forgery	.04	**.12**	.02	.01	.02	.02
Burglary	.19	.10	.17	**.24**	**.30**	.21
Assault	.09	.03	**.18**	.11	**.13**	**.16**
Homicide	.06	.03	.07	.05	.07	**.23**
Sexual	.06	.02	.06	.14	.07	.05

Thirty per cent. of the crimes committed by those who are normal (not abnormal) were robbery, as compared with only 15 per cent. for those who were deficient; 12 per cent. of the crimes of the normal were forgery, as compared with 1 per cent. for the deficient; only 3 per cent. of the crimes of the normal were assault, as compared with 18 per cent. for the dull normal and borderline. It is interesting to note that, of those who have become insane after entering prison (since 1890), 23 per cent. had been committed for murder.

Alcoholism and drug addiction do not play a very large rôle in felonious crime as less than 10 per cent. of the prisoners have been strictly alcoholic and less than 7 per cent. have at any time been addicted to drugs. However, analyzed in relation to the types of crime,

certain offences stand out in comparison with the average expectancy as shown by these percentages:

	1927 Average Expectancy	*Alcoholism*	*Drug Addiction*
Robbery . . .	.24	.20	.19
Larceny . . .	.25	.20	.24
Forgery . . .	.04	.03	.01
Burglary . . .	.19	.24	**.43**
Assault . . .	.09	**.15**	.02
Homicide . . .	.06	**.12**	.01
Sexual . . .	.06	.03	

Burglary is notably typical of the drug addict and assault and homicide are offences high for the alcoholic. Sexual crimes are very infrequent among the alcoholic and practically nil among the drug addicts.

Physical condition, health, and eyesight, when analyzed in relation to the types of crime do not seem to be responsible for variations from the averages and are, therefore, without significance as causative factors. Even epileptics and those suffering from advanced syphilis show no variations from the norms. Nor do I find any correlation between glandular defects and the various types of crime. Those who have contended that epilepsy, syphilis, and endocrine gland disfunction were positive causes of crime seem to have overlooked the fact that the proportion of people so affected is just as large for the non-criminal classes as it is for those behind bars. There are possibly cases where these and other defects are more or less important items in a

group of factors, but I have never seen a case where, in my judgment, they had been determinative causes.

At one time or another during the past century, Sing Sing has had among its prisoners men from every station and walk of life. There have been scions of European nobility, high public officials from blue-blood American families, lawyers, doctors, preachers, bankers, brokers, merchants, etc., but nearly 99 per cent. of its prisoners have come from poor homes and the common occupations.

The relation which occupation bears to the various types of crime is illustrated in percentage figures by the following selections from more than three hundred different occupations:

	1927 Average Expectancy	*Merchants and Salesmen*	*Bankers and Brokers*	*Doctors and Dentists*	*Lawyers*	*Preachers*	*Accountants and Bookkeepers*
Robbery	.24	—	—	—	—	—	—
Larceny	.25	.42	.72	.37	.62	.09	.59
Forgery	.04	.08	.21	.12	.26	.02	.17
Burglary	.19	.15	—	—	—	—	.05
Assault	.09	.08	.02	.08	—	—	.04
Homicide	.06	.05	.01	.31	.01	.01	.02
Sexual	.06	.04	.01	.04	.03	.84	.05

	1927 Average Expectancy	*Policemen and Peace Officers*	*Chauffeurs and Auto Mechanics*	*Trade Apprentices*	*Bakers and Cooks*	*Farmers*	*Common Labourers*
Robbery	.24	.02	.47	.40	.12	—	.20
Larceny	.25	.21	.23	.20	.22	.15	.16
Forgery	.04	—	.01	.01	—	.02	—
Burglary	.19	.02	.10	.17	.30	.28	.19
Assault	.09	.10	.08	.08	.14	.21	.21
Homicide	.06	.24	.06	.06	.08	.16	.11
Sexual	.06	.19	.05	.05	.07	.14	.07

From the foregoing it will be seen that the occupation, by offering the opportunity and the temptation, is a large determinative factor in the type of crime. It would appear more logical that the poorly paid preacher should steal, but such is not the case.

Are those who commit crime lazy, as the president of a large New York surety company recently declared in a speech that was widely quoted? The following analysis bears upon this question:

	At Time of Crime			*Work Habits in Prison*
	Unemployed	*Employed*	*Average Weekly Salary*	
Robbery . .	.38	.62	$35.75	Inclined to laziness
Larceny . .	.29	.71	$49.70	Fair worker
Forgery . .	.24	.76	$58.75	Fair worker
Burglary . .	.51	.49	$28.70	Unwilling worker
Assault . .	.18	.82	$35.10	Willing but slow
Homicide. .	.19	.81	$33.20	Good worker
Sexual . .	.20	.80	$23.00	Willing but stupid

It will be noted that the percentage of those unemployed at the time of crime is highest for burglary and that prisoners committed for this crime show unwillingness to work. On the other hand, 82 per cent. of those committed for assault were employed at the time of the crime, and they are willing workers. Obviously, it is misleading to say that "laziness leads to crime."

In this connection it is of interest to note that the value actually obtained in the average robbery during 1927 was only $30.75, or less than the average weekly

wage of those committed for this crime. The average for larceny was $230.10; for forgery, $5,870; for burglary, $43.22. In other words, the total "haul" of approximately nine hundred men committed to Sing Sing for these crimes in 1927 amounted to only $368,574.20 in terms of dollars and cents; robbery yielded $8,548.50; larceny, $63,967.80; forgery, $287,630.00 burglary, $8,427.90. *Nothing* was secured, either by failure of the attempt or as a result of repossession, in 57 per cent. of the robbery, 39 per cent. of the larceny, 18 per cent. of the forgery, and 71 per cent. of the burglary cases.

The sentences imposed for these offences totalled 12,389 years, or an average of $29.07 a year on the basis of the values actually obtained. Sentences for robbery totalled 6,545 years, or at the rate of $1.30 a year; for larceny, 1,680 years, or $38.07 a year; for forgery, 448 years, or $642.03 a year; and for burglary, 3,716 years, or $2.26 a year. Truly, crime does not pay! Sensational reports of large "hauls" are mostly fiction and always greatly exaggerated. Possibly these stories have tempted some young fellows of the adventurous type to "take a chance" on a "clean up."

There is a widespread notion that most of the crime is committed by men who have previously been in prison, i.e., repeaters or recidivists. The following analysis shows by percentage figures that this is not true except for the crime of burglary:

	Felonies	
	Recidivists	*1st Offenders*
1927 Average Expectancy . .	.37	.63
Robbery	.23	.77
Larceny	**.45**	.55
Forgery	**.49**	.51
Burglary	**.59**	.41
Assault	.29	.71
Homicide	.10	.90
Sexual.	.13	.87

Of the recidivists, 23.7 per cent. were second offenders; 8.3 per cent., third offenders; 3 per cent., fourth offenders; 1.2 per cent., fifth offenders; 1.3 per cent., sixth offenders; and 1.2 per cent., seventh offenders. Only about half of the 37 per cent. had previously been in Sing Sing, and only 3 per cent. of those committed here for their first violation have ever been returned to Sing Sing. Recidivists repeat their original type of crime in about 90 per cent. of the cases.

Combining the outstanding features of the foregoing analyses, we have the following statistical types, or "practical pictures," for each type of crime:

Robbery:

White; born in New York City; Italian or English stock; 17 to 21 years of age; common school education; normal mentally and physically; chauffeur, auto-mechanic, or trades apprentice; inclined to laziness; first offender.

Larceny:

White; born in New York City; Jewish or English stock; 32 to 36 years of age; graduate of common school with some high-school training; normal mentally and physically; "white collar" job or small business; fair worker; may be second offender.

Forgery:

White; born in New York City of Jewish stock, born in U. S. outside of New York City of German or English stock; 32 to 36 years of age; high-school or college training; superior mentally and normal physically; "white collar" avocation; fair worker; even chance of being second offender. (More than 50 per cent. were addicted to gambling on horse races.)

Burglary:

Negro born in U. S., foreign born of Jewish stock, or U. S. born of Irish stock; 22 to 26 years of age; intermediate grade education; dull mentally and below par physically; may be psychopathic or drug addict; menial labour; indolent and unwilling worker; likely to be second offender.

Assault:

Negro born in U. S., foreign born Italian or U. S. born of Irish stock; 22 to 26 years of age; comparatively illiterate; dull or psychopathic mentally and superior

physically; common labour; willing to work but slow; first offender.

Homicide:

White; foreign born Italian, U. S. born Negro, or U. S. born of Irish stock; 27 to 31 years of age; comparatively illiterate; unstable and paranoic mentally, normal physically; good worker; first offender.

Sexual:

White; rural born in U. S. of German stock, foreign born Russian-Polish and Italian; median age 45 years; comparatively illiterate; mentally deficient and physically inferior; menial labour; willing to work but stupid; first offender.

From these "practical pictures," statistically established by the prison records, it will be seen that the really important and vital facts to be considered in connection with the criminal are not physical characteristics such as low brows, large ears, etc., but certain practical factors of *time*, *place*, and *circumstance*.

Fifty years ago there were no automobile thefts for the very good reason that there were no automobiles to be stolen. There are no jewellery-store robberies in the country regions, because there are no jewellery stores in the rural sections. The man who is unable to read or write does not forge checks or deeds.

There are no Eskimo murderers in the Sing Sing

death house because there are no Eskimos in this prison district. If an Italian child should be raised by a Jewish merchant, he would, when grown to manhood, be likely to "go into business" where the temptation to defraud might eventually arise, rather than become a bricklayer where he might be provoked into making an assault upon a fellow labourer. If a poor child should be adopted by wealthy people who would give him a fortune in his own right when he became twenty-one years of age, it is quite unlikely that he would become a burglar or pickpocket. A child of the finest physical heredity, kidnapped and raised in the slums by people who taught him to steal, would almost inevitably land in prison.

The average man of thirty years of age has lost much of the daring and adventurous spirit that is characteristic of the normal young fellow of twenty, and even though subjected to the same temptation is less likely to become involved in a robbery. A man who has a good trade is not so apt to commit burglary, but he may in a moment of unreasoning rage kill a man or woman. Obviously, an illiterate Negro is not likely to be sent to prison for the hypothecation of a customer's securities because he does not get the opportunity which the broker has.

Coincidental circumstances can and do play a much larger part in our lives than most of us in our egotism care to admit. It flatters us to think that we are the masters of our fate, but are we truly? I believe the great

John Wesley had this thought of the play of circumstances in his mind when, seeing a man led to the gallows, he said, "There except for the grace of God goes John Wesley."

The "practical pictures" I have outlined relate entirely to Sing Sing Prison, and may not, of course, hold true for prisons in other states and countries. Moreover, these pictures must be considered as a whole, for a single factor or even several factors may have little or no significance. The mere fact of being a chauffeur would not alone lead to robbery, but, in combination with the other factors given under robbery, and in the presence of temptation, it is a large actuating influence as is shown by the fact that the chances of such an individual being committed for robbery are more than 200 to 1 against his being committed for embezzlement.

Even the entire group of factors is not absolutely determinative except in relation to a temptation that is of sufficient strength to "set off" the group just as a spark is necessary to set off a charge of dynamite. It may also happen that the temptation is so unusually strong that it will influence another set of factors sufficiently to change the normal trend, and so make a robber out of a burglar, or vice versa. In the main, however, a given set of factors will produce the same kind of results under similar conditions. Neither man nor crime is an exception to the universal *law* of *cause* and *effect*.

IV

WITHIN SING SING WALLS

The big armour-plate steel door of the South Gate slides slowly and quietly open; a group of handcuffed men are hustled in by the deputy sheriffs; and the door seems to snap shut like the murderous jaws of a hungry shark.

The prisoners, standing limp and dejected, like cowed and beaten dogs, are now within Sing Sing walls. Back of them, scarcely one hundred feet outside the gate, the men and women who walk along Hunter Street, of Ossining, are *free;* in front of them, one hundred feet toward the majestic Hudson River, is the death house, where thirteen condemned men are awaiting the approach of death in the electric chair; at one side, shovelling gravel and sand into a concrete mixer, are a half dozen or more of the prison's dead-living men—dead as far as freedom is concerned, because they are "natural lifers," but living flesh and blood, fellow human beings withal.

The handcuffs removed, the prison guard, who has received the men from the sheriffs, orders, "This way," and the prisoners are led along a narrow walk into a squat, one-room brick building, where they are lined up before the record clerk. The prisoners do not know it,

but this room, now fitted with desks and files, is the old execution chamber, where more than two hundred men and one woman were put to death; and just behind them as they face the clerk, is "the little green door," now painted a dark brown. What tragic tales of weakness, sin, sorrow, pain, death and despair these four walls might tell if they could speak!

"What's your name?" asks the record clerk, in a curt, business-like manner, because the tragedy that stalks before him and around him is all in his day's work. To him, these prisoners are merely "new business," to be disposed of as expeditiously as possible. The only difference between a two-years' sentence and a life sentence is that the latter saves him the trouble of figuring out the discharge date.

Answers to approximately sixty different questions are set down, and these, taken in combination with the probation officer's report attached to the commitment, the psychiatrist's, psychologist's, physician's, surgeon's, and investigator's reports, the Bertillon and Bureau of Identification records, and other sources of information, furnish a brief history of the man's life and the main facts with regard to his crime.

The record clerk's final query is intended to throw some light upon the cause of the crime as seen by the prisoner. "How did you happen to get into prison?" was asked of a coloured prisoner, committed for assault and battery.

"Two deputy sheriffs just brought me along, nohow," replied the Negro.

"I know," said the clerk, grinning, "but didn't alcohol have something to do with your coming here?"

"Yes, sah, dey was bofe considerable teaed up."

About 15 per cent. give intoxication as the cause of their crimes, but in view of the fact that a great many men indulge in intoxicants without committing felonies, this cause must not be taken too seriously. It is given, often, to extenuate the criminal act. I dare say that at least 25 per cent. of all young men brace themselves with some form of spirits *frumenti* before they "pop the question" to the sweetest girl in the world, but I have never heard of alcohol being considered as a cause of marriage. Note that the prison psychiatrists have found less than 10 per cent. actually alcoholic, and this checks with wardens' data independently compiled.

Approximately 30 per cent. of the prisoners attribute their crimes to "evil companionship," and this on its face appears quite plausible. In fact, this answer ranked first in a questionnaire submitted by the New York State Crime Commission to 3,000 prominent men and women. The answer, however, will not bear analysis, as has been so neatly pointed out by the *New Yorker:*

> In the opinion of three thousand great intellects of this town, evil companionship is the cause of most crime. This explains all. Crime, then, is prevalent because of the prevalence of crime.

Other causes assigned included need of money, gambling, revenge, drugs, jealousy, home conditions, the total averaging about 30 per cent. On original commitment less than ten in a thousand claim a "frame up," and only one in a thousand blames "hounding by the police," though parole violators more frequently make this claim. Claims of self-defence are naturally high in homicide and assault cases.

Innocence is claimed by about 15 per cent. of the prisoners. These claims, of course, must be greatly discounted, although it is a fact that a few absolutely innocent men are sent to prison and even sentenced to death, as a result of mistaken identity, "frame up," or fortuitous circumstances. Positive identification has frequently proved erroneous, and men have been definitely proved to have been innocent after serving long years in prison.

I have found that the usual claim of innocence is based upon the prisoner's contention that, while he committed the acts charged, he did not really do any wrong and was justified in what he did. Now, this attitude is not as illogical and irrational as it may seem, when we consider how easy it is for the best of us to convince ourselves that we are justified in doing things that are intrinsically wrong and, in effect if not actually so, illegal.

Nine men out of ten consider it quite all right to resort to methods and schemes whereby they "save" on

their income taxes, although the government and state are in reality defrauded thereby. How many men suffer any qualms of conscience in passing along a Canadian quarter, or taking a "free" street-car ride? Most women of the upper and middle classes habitually resort to contraceptive measures which are banned by the Church and are, indirectly, illegal. Is it not a fact that the attitude of most people is that the prohibition and other laws apply to everyone except themselves, and that what they do is their "own business"? The average man is in favour of a law against speeding but feels himself to be justified in driving at the rate of fifty miles an hour because he is a "good driver," etc., etc.

It is not strange, then, that so many prisoners should have honestly convinced themselves that they were justified in what they did and are, therefore, in effect, innocent. Incidentally, I am reminded that the late Elbert Hubbard defined a sinner as a "man with a different fault from my own."

The real *why* we, prisoners or preachers, lawbreakers or lawmakers, do the things we do must ever

> . . . be greatly dark,
> Who made the heart, 'tis he alone
> Decidedly can try us.
> —*Robert Burns.*

We can be sure, however, that the *heart* is a greater driving force than the *head*, and that an ounce of right *feeling* is worth more than a pound of right *thinking*.

It is not enough for people to *know* right from wrong; they must also *feel* that right is right and that wrong is wrong.

The taking of the record completed, the prisoner is given a number, which is thereafter used in connection with his name—the prisoner's name is not dropped for the number, as most people assume. The prisoner is then taken to another building to be "dressed in." Here he is required to remove all of his clothing, which is either destroyed or sent to the prisoner's people, and an officer looks into his mouth and between his toes and his fingers to make sure that no drugs or other contraband have been concealed. He is then ordered under a shower, after which he is given a prison-made suit of rough underwear, a "hickory" shirt, a pair of brogan shoes, socks, and gray coat and pants. (Stripes are no longer the mode in Sing Sing.) It is quite immaterial as to whether or not the clothes fit, and they usually do not. The result is that when dressed the prisoner would scarcely be recognized by anyone except his most intimate acquaintances.

Prisoners tell me that it is not the fact that they are given a number, but the loss of their personal effects, including all clothing, money, jewellery, etc., that seems to rob them of their personal identity and individuality. I know for a fact that the very first thing they do, when they become eligible for the privileges given to all orderly prisoners, is to supply their own gray shirts with

collar attached, underwear, and gray sweaters. I have noticed, too, that every possible subterfuge is resorted to in order to procure even a shade of off-colouring from the prescribed gray, and I attribute this to a desire to be different—an individual. The ownership by a man of some of his own clothing restores much of his self-respect and promotes cleanliness to a degree that would not be possible if he were forced to wear only clothes supplied to him free by the state.

After the "dressing in," the new prisoners received during the day are marched to the hospital for an initial examination. From the hospital they are taken to the "bucket rack," in the prison yard, where each man is given a large iron slop bucket. The prisoners, carrying these buckets, are then marched into the big cell block building and locked in individual cells on No. 13 Gallery.

The first turn of the lock in the heavy steel door is one of the greatest tragedies that can come into the life of any man. Now, if ever, a man, no matter how hardened and stolid he may be, will shed tears.

The cells have the appearance of being cut out of solid rock, the walls, floor, and ceiling being made out of large stones. The cell dimensions are 7 feet in length, 3 feet 3 inches in width, and 6 feet 7 inches in height. The door, 22 inches wide, is of plate steel, with a checkerboard lattice work toward the top, and is double locked.

The tiers of cells, rising six high, are set back to back, and the front of the tiers, reached by narrow galleries, is about ten feet in from the enclosing walls of the big building. No sunlight has, therefore, reached the interior of these cells in the hundred years of their existence, and there is practically no ventilation. Each cell contains an iron cot, with straw or tampico mattress, pillow, and blankets; an electric light, a tin drinking cup, and the prisoner's iron slop bucket—nothing more.

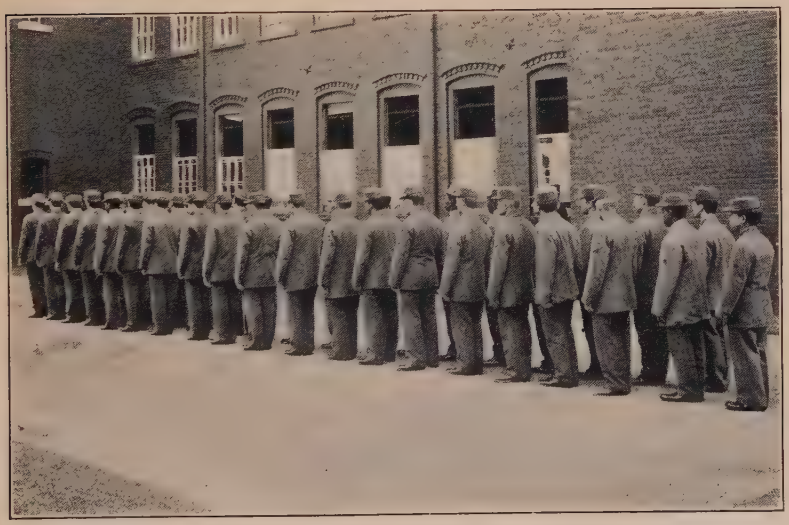
During the reception period new prisoners remain locked in these cells, except for meals and brief intervals in which they are taken to the prison hospital for a further physical examination, to the psychiatrist and psychologist for a mental examination, to the school for a brief educational examination, to the prison chaplain for an interview, and to the Bertillon Department for a picture and finger prints. The results of the examinations determine the kind of work the prisoner will be best adapted to do when he comes up for assignment later.

Prisoners unanimously agree that this period of reception segregation, which approximates solitary confinement, is the worst part of the "bit." The only privilege of the entire period is a Sunday letter.

The following letter is typical, in the general thought it conveys, of the majority of the more serious-minded and intelligent prisoners:

Research Library
Paramount Studios
5555 Melrose Ave.
Los Angeles, Calif. 90038
(213) 956-4867

THE OLD STYLE OF UNIFORM, WITH STRIPES



THE NEW STYLE OF UNIFORM, UNSTRIPED GRAY

DEAR BARNEY:

Well, here I am, within the grim old walls of Sing Sing, in a cell that you wouldn't put your worst enemy in. I don't know who planned these cells, but I suspect the devil himself had a hand in it.

As you know, I was adrift on a piece of wreckage in the North Sea for over 30 hours, in which I expected nearly every minute to be my last. I have known the agony of soul that comes to a man in the trenches when his buddies are being slaughtered all around him and with the brains of his best pal spattered all over his face. I have known the misery of a German prison camp where, half starved, I sweated by day and froze by night. But all of these put together and then doubled I would endure in preference to this, which is just plain hell.

It isn't that I have been mistreated, for I haven't been. It is just the awful stillness and the heaviness of these walls that seem, somehow, to be pressing in upon me. The war I took as a matter of course, as something necessary, but I wonder if this breaking of a man's spirit is necessary. I suppose that these cells were intended to make a man penitent, but it seems to me that they are more apt to have the opposite effect.

You have, of course, heard those old lines about "Stone walls do not a prison make, nor iron bars a cage." Well, the perfect answer to that is scratched on the walls of my cell:

"Stone walls do not a prison make,
A poet once did sing.
He must have been a blooming fake;
He didn't know a thing.
Perhaps 'twas true as he did say,
When under inspiration;
But the stone and bars they use to-day
Make a damned good imitation."

As you can guess, I have been doing a lot of stiff thinking, and I'll be darned if I can understand how all of this has happened to me. I wonder if, after all, it is not true, as Shakespeare says, that "There is a destiny that shapes our ends, rough hew them as we will." At any rate, as I look back over my life, I can see a thousand

turns which, had I taken them, might have led me to Congress, a clerkship in a dry-goods store, or to the gallows.

Well, however that may be, I am sure at the bottom of the ladder now, and I realize that I have got to buck up and start the climb all over. I am not kidding myself it is going to be easy, because I know it is going to be hard. But with a friend like you have proven yourself to be believing in me, I think I can turn the trick. Here's hoping.

Yours,

____

There is another type of prisoner who camouflages his true feelings with a bit of blarney such as is illustrated in the following letter:

HELLO JOE:

The first question they asked me when I got to Sing Sing was, "What is your name?" What do you think of that? After all the times I have been locked up they didn't even know my name. Can you beat it? It took me a half hour to answer all the other questions. When I finished telling many how times I had been locked up, the man looked at me and said, "Your record's got Edison's beat."

Wish you could see my new pants. They come to an end two inches below the knee. The guy who fitted me out told me to come back in a few days and he would sew ruffles on the bottoms. On the level, Joe, I look like a soda water bottle in these togs. The shirt they gave me was designed to fit either a man or a boy. Can you imagine me with a $6\frac{1}{2}$ cap on my $7\frac{1}{4}$ dome?

At my first meal in the mess hall I was given a thousand on a plate, Yes, I sure like beans. The pearl diver who waited on me knew me outside, and we exchanged a few words. A guard showed up before a blow was struck, and I was marched up to the hospital to be inspected by the "croaker," You know when I get started I can make the average liar look like George Washington, so I had no trouble in answering his questions to my satisfaction. Then I was led to the eye croaker to have my lamps examined. He asked if I ever wore cheaters.

When I got to the cell block, I was put in a cell that is the same size as the telephone booths in Schmidt's Drug Store. After I was locked in, a keeper came around four or five times to see if I was in or out. The guy in the next cell to me was sleeping like he was dead. The keeper hammered on the door of his cell and ordered him to turn on his light. The guy didn't wake up and the keeper kept on hammering until a voice called down from the gallery above and asked why he didn't go around to the rear door and knock.

Just as I was falling off to sleep, a guy came to my door and asked if I would like some water. He told me to put my cup to the door and he would pour me a drink. The water was in a tin can with a long spout. He asked me how much time I drew down, and when I told him a year, he said: "Why, an ace is only sleeping time! Don't take your shoes off or you'll miss your train."

Next day we visited the knowledge factory, and when the head teacher asked if I had ever been sent to school, I told him I had been sent all right but that I generally got flagged on the way by a fire or a ball game.

I then visited the "sky pilot." Say, Joe, he's a regular guy. He said, "Dinney, my boy, what brought you here?" I spun him a yarn, and Joe, he knew I was lying and I knew he knew it, but he never let on and said off-hand like, "Well, Dinney, any time anything goes wrong with you come and see me, and if you want any books to read you will find them in the library." When I left him, he wished me good luck. I figured he was wishing me luck so I would not forget any of my lies before I hit the next station on my rounds.

Well, I got this sheet of paper they gave me all filled up. So long, see you next year.

Ever, your old pal.

Every new prisoner, except drug addicts, who are transferred to Clinton Prison, must go through this reception period of approximate solitary confinement in No. 13 Gallery, and no one leaves it without the firm belief that the number 13 is truly unlucky. Few men's

minds could stand the strain of such confinement for more than a short time, as was definitely proved by an experiment in solitary confinement in Auburn Prison in 1821.

It was as a result of this experiment, in which a number of men became raving maniacs, that New York State established what is now known as the Auburn System. Under this plan, which has always been used at Sing Sing, the prisoners are locked in solitary cells at night, but work together in groups or companies during the day. Formerly, the prisoners were not allowed to speak to each other, but the "silent system" has not been in effect in Sing Sing for nearly fifteen years.

At the expiration of the reception period, the new prisoners are transferred from No. 13 Gallery to cells in some one of the other twenty-three galleries in the main cell block, and are put to work shovelling coal and performing other heavy tasks in what is known as Yard Company No. 2.

The coal, of which about ten thousand tons are received yearly, is shovelled out of the railroad cars. (The prison has its own electric engine and switch.) It is then wheeled into the power house and fed into six huge boilers, which supply the power for the shoe, knit, sheet metal, tailor, job, brush and print, machine, carpenter, and jobbing shops; the compressors and rock crushers for construction and quarry work; the heat and light for these shops, the hospital, library, school, cell blocks and

large, powerful flood lights for use on the walls and other buildings at night; the steam for the kitchens and laundry, and the electricity for the death chair. What must be the feelings of a prisoner when the thought comes to him that the very coal he is shovelling may, when converted into electricity, be used to burn out the life of a man or a woman locked in the death house about five hundred feet away!

Every new prisoner hits this coal pile and other disagreeable rough and dirty work unless he is ill or is, in the opinion of the hospital staff, physically unable. There is no favouritism shown to any prisoner either at this or any other time, though many feel that they have great ability which is unappreciated by the authorities. No influence, political or otherwise, gets inside of Sing Sing's walls. The greatest forward step in prison administration was taken when the governor eliminated politics from the prisons—it is hoped, forever. I number among my friends most of the leading state, county, and city officials, and to their great credit I will say that I have seldom been asked to discriminate in favour of any prisoner.

The fact of the matter is that the administration of this prison has been so arranged and organized that it would be impossible for a warden or any other official to show any favouritism even if he chose to do so, as all of the work of administration is overlapping and never entirely up to one individual. For example, the task or

job to which a prisoner is finally assigned after his "apprenticeship" on the coal pile is determined by an Assignment Board composed of the principal keeper, physician, psychiatrist, head teacher, and director of industries.

The principal keeper, who is the disciplinary officer of the prison, passes upon each prisoner's general character traits; the physician, upon his physical condition and eyesight; the psychiatrist, upon his mentality; the head teacher, upon his educational qualifications; and the director of industries, upon his vocational ability. Not only is the chance of favouritism eliminated in this way, but no man is assigned to work which he is unable to do satisfactorily. Formerly, men were often unwittingly punished for inability, because of poor eyesight, to do work in the knit shop, or construction work because of rheumatism due to bad teeth, etc., etc. It must be remembered that some of the members of our community have belonged to rival gangs, that we must deal with the stool pigeon and the state's witness as well as the men against whom they testify.

Someone may ask at this point, "Why all this bother with the criminal; why not lock all of those you don't kill in a cell and throw away the key?" Why, indeed! First, because we live in a civilized age and in a Christian nation. Second, because of the practical reason that most of these men will sooner or later finish their "bits" and return to society either better or worse than

when they entered prison. Locking them up would simplify the running of a prison, but it would not be the best way to run one. Treat a man like a dog and you will make a dog of him. Society has no right to violate the Golden Rule, and brute force never reformed any man.

The careful examination of each new prisoner by the doctor, psychiatrist, and others is not, however, dictated by humanitarian considerations, but is made in order that they can be placed where they will be of greatest service to the state whose prisoners they are. To me and the other officers of Sing Sing, the prisoners are in the aggregate just so many units or so much raw product to be put through the mill. We are, first of all, business men engaged in the business of running a prison in a business-like manner —not, to be sure, to make dollars out of sin or to capitalize weakness, but to make, if possible (and it is possible), law-abiding men out of men who have been law breakers.

Sing Sing in its operation takes on the aspect and assumes the problems of a community. This community, composed on an average of close to seventeen hundred prisoners, makes and repairs its own clothing and shoes; cooks and serves its own food; produces its own light and power; makes its own ice; bakes its own bread; conducts its own butcher and grocery shop; nurses its own sick under direction of physicians, surgeons, pathologists, and dentists; handles its own sewage; operates

its own laundry; conducts its own school; provides its own recreation; builds its own walks and roads; maintains and repairs its own buildings; runs what some people, who have never seen the inside of the century-old cell block, choose to call a "hotel"; does its own barbering; handles and distributes its own mail after it has been officially censored; operates a small farm, dairy, hennery, barn, and repair garage with its fleet of auto trucks; conducts its own religious exercises, under the supervision and direction of specially qualified chaplains whose devotion to their work causes many a man to have a change of heart; handles its own library; has its own morgue; polices its own grounds and regulates its own traffic; has its own set of laws (rules); has a court to try its own offenders and a jail within a jail for them; and, in addition, operates factories, which produce more than six hundred and fifty thousand dollars' worth of products annually. In conducting this business we cannot discharge any employee and we can pay him but little return for his labour. We must continuously examine tons of raw materials to prevent the bringing in of contraband articles such as weapons or intoxicants and must exercise diligence and care that none of our "workmen" secrete themselves in outgoing packing boxes. This happened twice, once in the movies and once actually. There is an efficient fire department, properly equipped, composed of prisoners with a civilian chief, to protect our buildings.

There are also many different kinds of special work to be done in this community. A watchmaker is kept busy repairing the numerous clocks in offices and shops; a skilled locksmith looks after the thousands of locks, and a key room is operated to care for the keys to them; an expert welder repairs the bars, some of which are occasionally tampered with; a statistician looks after files and compiles various record charts; an advertising expert assists in the preparation of the catalogue of prison products; an interpreter translates the foreign mail for the censor; an undertaker assists in the autopsies, etc. Plumbing, painting, rock quarrying, stone crushing, concrete work, and machine shop afford employment and instruction.

With more than one hundred and fifty different kinds of work to be done, it is not, as a rule, difficult to assign most men to work for which they are somewhat fitted. Among the recent arrivals who have been difficult to place have been a sky-writing aviator, a prison warden, a radio announcer, a judge, a preacher, a bartender, a pugilist, a masseur, and a pretzel peddler. Work they must, however, so the sky writer was given a job painting the smokestacks and roofs; the prison warden was put in charge of the chickens; the radio announcer was given a mop; the judge was made a waiter in the mess hall; the preacher was given the task of cleaning the chapel each day; the bartender was put to washing dishes; the pugilist was made a fireman in

the power house; the masseur was given the job of manicuring the yard; and the pretzel peddler was assigned to the scavenger cart.

While guards within the walls are unarmed, we have an armoury for shot and riot guns and gas bombs. We have never had occasion to use them, and I hope we never shall.

The State of New York is committed by its constitution to what is known as the State Use System in the work done by prisoners. That is to say, the prisoners can only be used to manufacture products to be sold to New York state, county, or municipal public institutions. While this system is decidedly better than the old contract system, whereby the labour of the prisoners was sold to private contractors, it greatly restricts the field in which the prison labour may be utilized and makes it practically impossible for a prison to be self-sustaining. If unrestricted in this way, the prison could, of course, be made to support itself and show a profit besides, but as this would, in the opinion of labour leaders and chambers of commerce, bring prison labour into competition with free labour, it has been opposed by them successfully.

Theoretically, the State Use System could be made to yield a larger return than it does, but actually is hampered by dilapidated buildings, antiquated and inadequate machinery. The prisons are now able to produce only a small part of the thousands of various

products for which there is a possible market and meet specifications of quality, size, etc. On the whole it is an unwilling market and results in most of the "theoretical" prison business being diverted into other channels, and under such conditions the burden falls back upon the taxpayers. This problem is now receiving intelligent and sympathetic consideration.

Sing Sing is now producing 185 articles in its factories. The knit shop is the largest of these plants and produces hosiery, underwear, and numerous other knitted articles. There are also a dye shop, a shoe shop, a mattress shop, a brush shop, and a sheet-metal shop. The prison also has a print shop, but it is so restricted by legislative enactment that it cannot be utilized except for our own departmental printing requirements. With the state requiring annually more than twelve million dollar's worth of printing, this method seems unfair to the prisoner, the prison, and the taxpayer.

As a group, these shops or prison industries supply work for only about one third of the prison population. About one half of the prisoners are employed in connection with the repairs, upkeep, and maintenance of the prison, and the remainder in road building, farming, and construction work. The work day begins at 8 A. M. and continues until 4 P. M., with an intermission of one hour for lunch. Those prisoners who work in the shops may earn as much as ten cents a day, though no actual payment has yet been made; all others receive only one and

one-half cents regardless of how difficult or arduous the work may be. Some prisoners, of course, are lazy and would loaf at their tasks, if permitted, just as some men do on the outside; but there are many men who are energetic and work very hard. A call for volunteers to do some unusually heavy or disagreeable work, during or after regular working hours and in any kind of weather, is always met with more men than can be used. I take no stock in the theory that most prisoners are any more lazy than any other group of men who have little or no incentive to work.

The prison day begins with the clattering gong at 6 A. M. and the morning count is made by the guards checking each cell. Thirty minutes later the second bell is rung and every man must be out of his bunk and dressed. Then begins the malodorous march to the open sewer where the night buckets are dumped and deposited on the "bucket rack," which is to Sing Sing something more than the old board fence was to Harvard a generation ago.

Breakfast—consisting either of prison hash or a cereal—is eaten at 7 o'clock, and at 7:50 the whistle blows calling the men to their shops and companies, where they are counted again. At 8 o'clock each man begins his task, and a stipulated amount of work must be done. There is no slave driving, but, on the other hand, there is no lolling. There is none of the old prison (so-called) discipline, but there is true discipline such as would

prevail in any well-regulated factory. The man who is caught smoking at his work cannot, of course, be fired but he is immediately reported, and on the following Monday morning he is called into the warden's court and promptly and inevitably fined thirty days, thereby delaying the date of his release, and at the same time losing the privileges of a Grade A man.

Every man except an escaped prisoner or a parole violator, regardless of whether or not he is a gunman, stick-up, forger, bigamist, etc., enters prison as a Grade A man, and as such he is permitted to have four week-day visits and one Sunday visit per month; to write four Sunday and four mid-week letters per month; and to spend not more than three dollars (of his own money, if any, or money given to him by relatives or friends) a week for groceries. If, then, a prisoner violates the rule against smoking in the buildings, or any of the other rules, many of which would be considered petty outside, he becomes a Grade B man and is permitted to have only one week-day visit and one Sunday visit per month; to write only four Sunday letters a month; and to spend only one dollar and fifty cents a week for groceries. A second infraction results in a rating of Grade C, which involves the loss of all privileges, with the exception of an occasional letter.

This matter of privileges has been misunderstood by a portion of the public. They have not been evolved in a spirit of condescension toward the prisoner, but are

used as a powerful incentive to good behaviour—a much more efficient influence than kicking, cuffing, chaining, confinement in a dark cell, etc., forms of punishment which formerly prevailed in this prison and which, I am sorry to say, still prevail in some prisons of the United States. The hope of reward has ever been a greater inducement than fear of punishment, and while we maintain an Observation or Idle Company for prisoners who repeatedly violate conduct or work regulations there are never more than twenty-five inmates there. They are finally transferred to the Institution for Defective Delinquents or come to their senses and reenter institutional activities. Numerous men have finished twenty-year "bits" in Sing Sing without losing these greatly coveted privileges, which are not "special" privileges, but the privilege (not the right) of every man who lives up to the rules. Only about one fourth of the prisoners revert to Grade B, and only one in twenty-five becomes a Grade C man—a truly remarkable showing when one considers the trivial nature of most of the rules and the fact that these men are largely anti-social, as evidenced by their being law violators.

At 12 o'clock the whistle blows and the men, assembled in companies, march into the mess hall for the noon meal, which consists, as a rule, of a piece of wholesome but coarse meat and a vegetable with bread and coffee. No green vegetables or fresh fruits are ever served because the appropriation of about twenty-one cents a day

per man for food—an average of seven cents a meal—will buy only the coarsest and plainest of food. This, incidentally, is the same amount as was allowed in 1868 and illustrates the tendency of prison affairs to follow an established precedent, regardless of the fact that the buying power of twenty-one cents is now no more than one fourth of what it was sixty years ago.

There are many people who have been shocked to learn that the prisoners march into the mess hall to the music of a band. This strikes them as coddling. The band is composed of prisoners who work at other tasks and who own their instruments. However, it is not provided for the entertainment of the inmates but is used just as it is in the army, because marching men can be handled more easily and quickly than a motley group. Other people are surprised to find not a single armed guard either in or near the mess hall or auditorium, and to learn that, despite this fact, there is no disorder. Others are amazed that the prisoners are allowed the use of knives and forks. The fact of the matter is that the Sing Sing mess hall is run much the same as any hall would be with any other group of men, and there is never any disturbance here, though prison administrators usually fear what might happen with so many men assembled, all of whom could arm themselves with table knives.

The noon meal over, the men file out to relax, smoke, "play catch," or talk with friends until the 12:50 o'clock

whistle blows "Back to work." Another count is made at this time, and a few minutes later every man is at work and continues until 4 P. M. The only exceptions to this routine are the men who attend the prison school.

Attendance at this school for one hour a day is compulsory for all men who, by education or tests, rate below the sixth grade. The teaching is done by prisoner teachers, under the supervision of a civilian head teacher, and the results achieved are excellent. Tests made by a research assistant in the Department of Psychology of Columbia University showed that the prisoner students make more rapid progress than is made by students in corresponding grades outside. Correspondence courses are also permitted, with some very excellent results.

A light supper is served in the mess hall shortly after four o'clock, but those prisoners who choose to do so may prepare their own evening meal from food purchased in the prison store. As the amount of these purchases is strictly limited to three dollars a week for Grade A prisoners, the meal is necessarily simple, but it provides a change from the monotonous prison fare and makes for the better health of the men and good morale. Prisoners may also receive packages of staple foods and fruits from relatives and friends, but these are limited as to size and number and no luxuries are permitted. The receiving of an occasional package from

home tends to maintain the family ties, which are the greatest restraint against a return to crime, and is permitted for this reason rather than as a concession to the prisoner.

After supper and until the approach of darkness the prisoners are permitted the use of the grounds for recreation. Baseball is easily the most popular game, but hand ball is also played. Those who do not care to play may walk around the grounds or gather in groups for the discussion of topics of the day or just "plain talk." The uninitiated will, perhaps, be surprised to learn that the conversation rarely relates to crime, although every man is ready to discuss his own case. More often than not, when the subject does relate to crime, some old-timer is warning some younger man that he can't win at crime. I realize this is not the popular conception of the matter, but it is a fact, nevertheless. In all my experience I have seldom known of a crime that was planned in prison, notwithstanding detective stories to the contrary. Practically every man intends to "go straight" at the time of release, even though he may slip later after meeting the members of his "mob."

Finally, as the sun begins to sink behind the bluffs on the west bank of the Hudson, the whistle blows for "All in" and the men, with their night buckets, march into the cell blocks and are locked in their cells and counted. Once in a great while a cell that should have a man in it is found empty and the count is short. Immediately,

the night lock is thrown and all officers off duty are called in by the hoarse bellow of the special alarm whistle, known to the prisoners as Big Ben, which seems to roar out the word Escape! Escape! Escape!

Most attempts to escape are made by hiding out in the yard, which is not so difficult, as the area of the yard comprises twenty acres, and every now and then some man hits upon what he considers a hide-out spot. Usually the man is quickly found by the searching squad of officers, which keeps up the search night and day for several weeks at a time, if necessary, as old buildings have wooden floors, ceilings, and partitions that make ideal caches. Those who are not located are usually forced out by hunger and thirst when unable to be fed by a pal. One prisoner died in his hiding place, and his skeleton was accidentally found ten years later. Recently, however, two men were successful in their hide-out and, taking advantage of the shadows of a new building and poor supervision by the guards, found a hole under the fence facing the river and made a clean getaway over the Hudson, only to be recaptured in the homes of relatives a few weeks later. The call of home, relatives, or a sweetheart is usually so strong in a man that almost inevitably he returns and is caught, or in an attempt to evade the officers on his track he commits another crime and is caught. Only three of the eighteen men who have escaped from Sing Sing since 1920 are still at large. This average of less than three escapes

per year compares with ten a year for the same period fifty years ago.

No two escapes are exactly the same, because the weak point discovered by the prisoner is immediately strengthened and a repetition averted. Almost always an escape, except in the case of a "trusty," is made possible by some official negligence. Some years ago an escape was made from this prison by the substitution in the prisoner's bunk of a dummy which was not discovered to be a fake until "Get up" the next morning. This man, who was a gifted artist, had carefully modelled a head and neck of bread, and had, by saving clippings of his own hair, supplied hair, which, with carefully painted eyes, made the body of the dummy so lifelike that it was counted. Recently another man tried this trick but failed, and now every prisoner is required to stand at his door until counted.

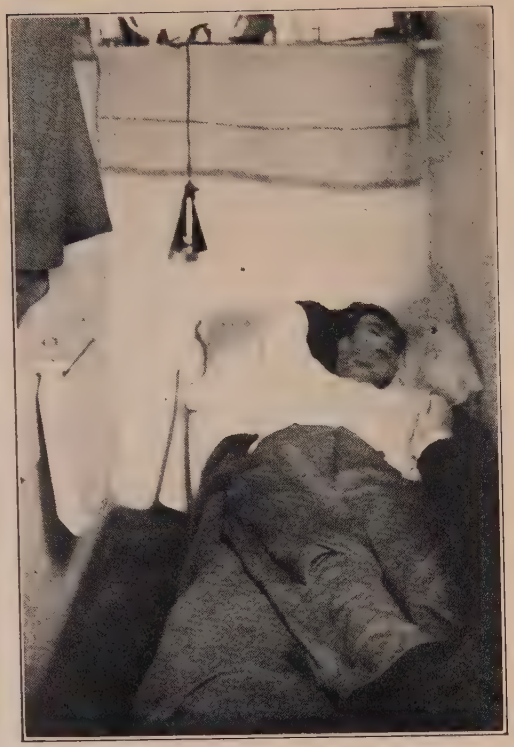
Some of the escapes and attempts to escape have been quite ingenuous. Sing Sing faces the Hudson River, and there is no wall on the river side, only an iron fence. One man, a number of years ago, made a pair of rubber ducks and a clever headpiece which was connected with a hole in the backs of the ducks by rubber tubes. This enabled him to breathe while under water, and as the ducks did not arouse the suspicion of the guards, he effected an escape, but was subsequently recaptured. Recently a former student of one of the leading universities of New York City, contrived with bits of pipe and

wire a mechanism for unlocking his cell door that would have done credit to almost any of the leading inventors.

To the average person, it would seem that an escape from within the walls would be impossible. However, there is always a weakest spot somewhere, and sooner or later some one of the hundreds who are trying to locate it will find it. In 1926, two men apparently vanished into thin air in broad daylight and with guards at every gate and on the walls. The ingenuity and resourcefulness of prisoners require not only vigilance but honesty on the part of their guards.

Except in the rare instance of an escape or hide-out, the count checks, and the prisoners seat themselves on their bunks to read letters or papers which are distributed at this time. To many men, this is the hour of the day for which they live on and on, each succeeding letter from loved ones or friends renewing their courage to face the seemingly endless years to come. Bare and sad indeed is the life of a prisoner who receives no letters, and to these a newspaper is a great boon.

Now and then I am asked if the newspapers, with their superfluity of crime news, are not a bad influence upon the prisoners. I confess that some popular newspapers seem to me unsuited for anyone to read, but, if they are good enough to be received into homes where they are read by everyone, from the schoolgirl to grandpa, I fail to see why they should be excluded as bad for prisoners. In any case, I think that the influence of such



A SUCCESSFUL DUMMY

THE CHAIR

papers is largely offset by the fact that the prisoner learns how unreliable and distorted the average crime story is by comparison with the facts which come under his direct observation.

If there is no letter, paper, or magazine to read, the prisoner may busy himself cleaning his cell, mending his clothes, darning his socks, etc. Some read a book from the prison library, others study, a few work at the making of beaded bags or some other hand work to be given to a loved one on the outside, and an occasional prisoner works on some invention which may be anything from a burglar-proof lock to a dirigible. Such work is, of course, encouraged, since it is constructive and keeps a man's mind occupied.

After about two hours in the cell, the prisoners who are housed in the *old* prison are released to attend the movies, shown nightly in the prison chapel. The purpose of these moving pictures is, primarily, one of health, as the cells are so small and unsanitary that it is important that prisoners should not be kept locked in them a minute longer than necessary. Moving pictures have, of course, educational and recreational values which are valuable antidotes to the poisonous and killing monotony of prison life, but these are incidental to the more urgent health consideration. Prisoners housed in the new prison buildings are restricted to movies on Tuesdays and Fridays and are locked in their separate cells on all of the other evenings of the week. Inciden-

tally, the moving pictures are provided without one cent of cost to the state through a low rental rate made by the courtesy of the leading producers and distributors. The charge is met from the earnings of the prison store whose profits, of course, come from the purchases of the prisoners.

By about 9:30 P. M. the show is over and the final count of the day is made. Lights are turned off soon after, and each prisoner is alone with his thoughts and almost as securely locked away from the world as if he were in his grave. Fortunately their tired bodies invite sleep quickly, but it is not uncommon for the officers on guard to hear muffled sobs along their galleries during those long hours that come after midnight.

At 6 A. M. the big gong clatters for the "Wake-up," and another day, which in its routine is exactly like the day before, passes on into another day, and so on through the week, until Saturday comes, with half a day off in the afternoon. Sunday is a day of rest, during which religious services are held in the morning followed by a baseball game in the afternoon when the weather permits and general recreation at other times.

Thus day follows day, week follows week, month follows month, year follows year—all with the same inevitable and deadening routine which makes every day seem like a week and every week like a month. Some men's minds crack under the strain despite all that we can do, but commitments to the Dannemora State

Hospital for the criminal insane have been reduced from forty-eight in 1913 to a low of ten per year. Not only are more men being saved from insanity by modern prison administrative methods, but only about 37 per cent. of the prisoners are repeaters now as compared with more than 50 per cent. under the old system. Common sense yields the best results in the handling of prisoners just as it pays best in the handling of horses or in business—"The proof of the pudding is in the eating."

V

"HONOUR AMONG THIEVES"

"The most daring and desperate, most hardened and cruel, most cunning and remorseless criminals in the world." . . . This has been said of the murderers, robbers, burglars, etc., of New York City and its environs, from which Sing Sing receives its prisoners. Whether or not this is literally true I cannot, of course, definitely say, but there is little doubt but what Sing Sing's prisoners are as bad as are to be found in any other of the world's prisons.

Since I became warden of Sing Sing, on January 1, 1920, I have handled more than ten thousand of these "bad" men, and have found myself faced with an equal number of paradoxes and anomalies. The gunman murderer, in most instances, proves to be tender hearted; the bold robber, timid; the thief, honest.

The warden is required by law to live at the prison, and the statute provides that his servants shall be prisoners. The result is that I have had a cook who was a poisoner and have been shaved by a prisoner who had cut another man's throat. My youngest daughter, now seven years old, has been driven about outside the prison walls in her pony cart by a man doing twenty-five years for kidnapping, and my guests often turn their valuables

over for safe keeping to men under sentence for robbery, larceny, and burglary. My family walk about the prison yards and among the men with greater assurance of safety than we would feel on the streets of any great city. I have never carried a revolver or blackjack in Sing Sing Prison.

Recently I had as guests for a night some members of a certain club, and among these was a newspaper editor who somehow happened to have ninety dollars with him. The next morning I heard a great commotion from the direction of his room, and a second later he emerged to declare that he had been robbed. Now the safest place I know of for any personal property is a warden's residence, so I realized that it was highly improbable that his money had been stolen. I therefore suggested that a careful search be made, and the result was that the money was found in one of his shoes, where he had hidden and forgotten it.

Last summer the veterinarian advised me to kill one of the dairy herd which had, apparently, outlived her usefulness. I so ordered and forgot the matter until the Italian prisoner, doing life for murder, who had been milking the cow, came to me and with tears streaming down his face begged me to spare her life because, as he said, "She gooda friend." I confess I did not have the heart to deny his request and, although caring for this cow in her old age means more work to him, he does it cheerfully and lovingly.

Another prisoner who killed three people had a little mongrel yellow dog which had its leg broken by a front wheel of one of the prison trucks. At imminent danger to his own life, he grabbed the dog from in front of the heavy rear wheels and, crying bitterly, begged his prison buddy to do something for the dog. Together they put a crude splint upon the leg, and the little dog recovered.

Hundreds of chickens are raised yearly in the prison hennery. Now I confess that one chicken means no more to me than another, except as it may afford an extra bite or two, but to a prisoner who was until recently in charge of the chickens the loss of a leg of one of the small chickens was something that aroused pity. He, therefore, contrived a wooden leg which was so skilfully applied that the chicken got about quite nicely and grew into a large hen, new wooden legs being made as required. Did this chicken ever grace my table? No, it went home with the man, and I hope it lives to a ripe old age.

No one seems to know where all of the dogs that are in Sing Sing come from. It seems as if every homeless dog within miles must sense the fact that he will find a safe refuge within the walls. Certain it is that no dog is ever turned away, and many a prisoner has, to my own knowledge, deprived himself of food in order that his dog might not go hungry. The local dog catcher came to the prison one day to take away all unlicensed dogs, but in the few minutes it took him to get inside,

every dog had mysteriously and miraculously disappeared. Cats do not fare so well, and there have been instances where a spaghetti stew has followed suspiciously close upon the disappearance of a particular tabby. In contrast with this, a squirrel has lived in the prison for several years.

Pets run the gamut from cockroaches to a $500 parrot which was a gift to a natural lifer. Some prisoners make pets of mice and rats, which develop surprising intelligence. Others are able, with indefatigable patience, to tame and train sparrows, wrens, and other wild birds, and it is rather interesting to note that they cannot be induced to cage their pets.

The love of pets is so generally a characteristic of prisoners that Lombroso and some of his followers concluded that it was indicative of inherent criminality. Such an idea is, of course, absurd in the extreme, and it is only because prisoners are shut off from the ordinary contacts of life that their affections are directed toward pets. A little girl who has no beautiful wax doll will shower her love upon a homely rag doll.

It seems entirely logical to assume that the average man who steals does so because he is too lazy to work for his living, but I find myself unable to square this conclusion with the fact that I have seen hundreds of such men volunteer to fight dangerous prison fires and work night and day until they were subdued. Another peculiar feature of these situations was that the prison-

ers had nothing to gain by this work and might have been expected to be glad to see the shops burn, as this would have meant less work for them to do until such time as the buildings were rebuilt.

I also find many men who have been committed for larceny, forgery, and burglary excellent workers with no other incentive than a wage of one and one-half cents a day. In fact, prisoners, taken as a whole, willingly return a great deal more to the prison and its management than is given them, and I make this statement as a matter of rendering justice to whom it is due, be they gunmen or confidence tricksters.

In addition, many prisoners give of themselves unsparingly and without selfishness to their fellow prisoners. Some of the best teaching I have ever seen has been done by prisoner teachers in the prison school, where teaching must be done well in order to achieve the excellent results that have been obtained. In this connection, I recall an incident that occurred while I was showing Sir Thomas Lipton through this school three years ago. Sir Thomas was so much impressed with one of the teachers that when the class was over he complimented him by saying, "Fine work you are doing, professor, and I hope you continue here a long time." Sir Thomas was somewhat chagrined, later, to learn that the "professor" was a prisoner—a man formerly prominent in a national reform movement—and that his wish that he would "continue here a long time," while

A PRISONER AND HIS PET
Many of the inmates adopt any small animals or birds that they can tame.

intended as complimentary, was actually, if literally taken, far from being a good wish from the prisoner's standpoint.

A call for volunteers to furnish blood for a transfusion invariably brings a large number of men who have absolutely nothing to gain thereby—not even an extra portion at the next meal. The prisoner nurses and attendants often work night and day over what appears to be a hopeless case, and in some instances their unceasing care results in remarkable recoveries. The prisoner who is admitted to the hospital ceases to be a prisoner, as far as the hospital staff is concerned, but becomes a patient, and is treated as such, regardless of whether he is white, black, or yellow, gunman, robber, or burglar. Old Jake, who is a sort of assistant to every worker in the hospital and is now doing his eighth bit, has spent most of his life in prison and has been a miserable failure from a social standpoint; but in the good that he has done his fellow prisoners with long hours of patient care and drudging labour, he has been a huge success. I don't know, but I fancy that whatever his shortcomings in this world have been, Old Jake will need no judge's commitment to get "within the walls of heaven."

On July 4, 1927, just after the prisoners had been released from their cells, a canoe containing two men capsized in the Hudson about five hundred feet out from the high iron-barred fence that runs along the banks of the river. There was a stiff gale blowing at the time, and

I am told that it is not likely that any professional life saver would have been able to effect the rescue of these men in the rough water; but there were hundreds of prisoners, many of whom could not swim, who begged to risk their lives in an attempt to save the men. The guards on the walls could not leave their posts or guns and were without authority to allow any prisoner to attempt a rescue. They, of course, could not determine whether or not the accident was a "staged" affair to bring about an escape. Unfortunately, I was not notified until it was too late to do anything. The drowning of these men spread a pall over the prison yard that day, and the special holiday chicken dinner—a rare treat—was left untouched by many prisoners doing time for murder and other crimes of violence.

Those who think of the criminal as he is usually portrayed in fiction may find it difficult to think of him as having any of the characteristics of a hero. As a matter of fact, I know of a number of former prisoners who distinguished themselves for bravery in the late war, and there are now in Sing Sing several men who have received high decorations for fearlessness and heroism. More than 20 per cent. of our present prison population have seen service in defence of our nation's flag. If I should ever need a man upon whose courage I would rely in the face of the gravest danger, I know hundreds of men—prisoners and ex-prisoners—upon whom I would stake my life.

Prisoners are, as a rule, generous—many of them to a fault. On the outside, they have been generous to their friends and good to their mothers. Within the walls, they will share their last bite or last Lucky or Camel with any fellow prisoner. If any man is unable to do his work, fellow prisoners will give him a lift. I have even known men to assume the blame and take punishment for something they had not done, in order to protect a prisoner friend.

"Why did you take the blame?" I asked one prisoner, whom I later found to have been innocent of the charge.

"Well, he is just a thoughtless young fellow. Besides, I heard that his mother was going to visit him Sunday, and I knew he'd miss the visit if he was 'jugged.' Anyhow, what is ninety days more to an old-timer like me?"

There are no social or racial distinctions among men in Sing Sing. Every prisoner, be he blue blood or former Bowery bum, stands or falls on his merits here. He may, and sometimes does, deteriorate through selfishness, deceit, cowardice, and shiftlessness, until he is little more than a number. Or he may, through unselfishness, honesty, courage, and the desire to serve, build himself up in the esteem of his fellow prisoners and the prison officials. Prisoners are quick to recognize merit and to give credit to those fellow prisoners who are deserving. Here in prison, as on the outside, the qualities of honesty, loyalty, respect for women, and what for lack of a better word is called "guts" are admired and cherished.

This brings me to the consideration of the fact that a thief in prison is despised by prisoners committed for theft, and that capital punishment is strongly upheld by those who have been sent to prison for murder. How do they square this attitude with their own crime? Simple! Their acts were not crimes, to their own way of thinking.

"I believe you are here for larceny, aren't you?" I asked a prisoner who complained that his fountain pen (later found just where he had left it) had been stolen.

"Yes," he replied, "but I really didn't steal nothing. I had spent a lot of money on this girl, so when she gave me the go-by, I keeps her ring and sells it, and didn't get back near what I had spent on her."

A prisoner who had been a bank cashier insisted that what he took really belonged to him, as he had worked long hours overtime and was poorly paid anyhow. Another man declared that he hadn't really stolen anything, because he meant to and would have put it back as soon as the stock on which his employer gave him a tip went up. Several prisoners have contended that they had done no more than is being done by "big business" every day, and that "stealing is good business when a man succeeds, and larceny only when he fails."

"That fellow should have got the chair; he murdered his sweetheart in cold blood. Too bad he didn't kill himself and save the state the trouble." This—and much more along the same line—was said to me by a prisoner who had, himself, killed his wife as she slept, intending

to commit suicide but losing his nerve at the last minute. He blamed the other man, but excused himself because he had intended to kill himself and felt that it was better to kill his wife than to leave her at the mercy of the world. Bear in mind that the man he condemned had actually attempted to commit suicide, whereas he had lost his nerve.

An Italian prisoner said to me on one occasion "When the war-a come, I go make a fight and kill-a Germans who never hurt-a me at all. For these I get a medal. Then I come-a home and kill these-a man, he slacker, who ruin-a my sister. Now the judge he say-a I must do-a twenty years. I maybe make a murder in war, but I no make a murder to kill-a these-a snake."

An unusually intelligent forger—one of the few who got any money to speak of—took the position that success in any line is largely a matter of outwitting the other fellow, that nobody but the farmer and the miner were really creating wealth, and that all other wealth was acquired by "outsmarting" the other man. He also contended that "carelessness is inexcusable," and that the business man who leaves himself open by reason of carelessness deserves a "trimming." He emphasized the fact that he only "worked on" banks or business men who carried insurance, so "nobody lost anything as the insurance companies got theirs from people who would rather pay them premiums than take ordinary business precautions."

I am reminded in this connection of a statement made by Judge E. O. Lewis, of Philadelphia, in an address delivered before the American Association for the Advancement of Science. He said, "The insurance system is responsible for a great deal of crime." Readers will recall that the principal incentive in two recent murders in New York City was life insurance, a large part of which was procured without the insured men's knowledge. The amount of the policies and circumstances under which they were taken out should have aroused the insurance companies' suspicion, if they had had any other interest than the premiums.

I read recently a statement quoting officials of a New York City company which writes theft insurance of various kinds as saying that losses through forgery alone totalled $20,000,000 a year for New York City. Now I have been unable to find a year in which commitments from the entire Sing Sing district accounted for more than $300,000 in losses by forgery, and this was far above the average. No doubt the publication of the larger figures scares more people into taking out forgery insurance, but it also results in many young men gaining the impression that crime pays, when as a matter of fact it does not. I am of the opinion that an incalculable amount of harm is done by the publication of grossly exaggerated figures in connection with the hauls of robbers, burglars, and forgers.

Crime is rarely a one-sided proposition; guilt rarely

entirely personal. Responsibility must, in most instances, be shared by society, which takes credit for a man's virtues and should by the same token acknowledge at least some of the blame for his vices. The newspapers and movies must, in many instances, share a good deal of the responsibility of crime, but so too must the schools, the churches, and many thoughtless fathers, indulgent mothers, vain wives, under-paying employers, dishonest politicians, usurious bankers, grasping money lenders, etc. In several cases of men who have been sent to Sing Sing in connection with big business failures, the failures were due to payments of high interest rates to grasping money lenders, who were themselves complainants although they had actually received in interest more than they had loaned and were therefore only nominal losers in the failure.

Some people have the impression that the men who have been sent to prison for robbery, larceny, forgery, and burglary have made "big hauls" which enable them to live in ease thereafter. Such is not the case. Almost without exception they arrive in prison poor men even though a very few of them may have handled large sums in the aggregate. More than 98 per cent. of the money deposited to the account of prisoners in Sing Sing is small sums received as gifts from relatives and friends. There may be malefactors of great wealth. In fact, I am sure there are, but they are not sent to Sing Sing. It just isn't being done!

A young fellow committed for bigamy contended that he had gone through with his second marriage in order "to protect the girl," and that as he was only living with the one wife he was not really violating the law as much as a man who had a wife but "ran around with other women."

In this connection, it is of interest to note that had he lived with the girl without marrying her he could not have been sent to Sing Sing. Another interesting fact that is more or less surprising is that, as a rule, all of the wives of a bigamist want to visit him; but this, of course, is not permitted. The bigamist is almost never a handsome, aggressive, or brainy man, but usually so effeminate that I sometimes wonder if they were not more "led" than "leading."

Now this tendency to excuse or minimize one's own acts by "passing the buck," this magnifying of the mote in the other fellow's eye, is not peculiar to the man behind walls and bars. I hear just as much of this side-stepping on the "outside" as I do on the "inside." In fact, I have come to the conclusion that the men within prison walls are no different than the average man on the outside. The average man of Main Street has the same faults and the same virtues as the average prisoner.

Mr. Average Citizen, be he banker or butcher, merchant or mechanic, judge or juryman, policeman or pipe fitter, etc. takes a drink now and then in spite of

prohibition; plays poker or shoots crap; bets on the races and prize fights; tells lies of various shades, from white to black, when occasion demands; "steps out" at times; stretches his conscience in the matter of interest rates, weights, quality of goods sold, overtime, etc.; drives his car as fast as he can when he dares; picks up, when he can, a bargain which is understood to have been smuggled into the country, or which is intimated to have come from a devious source, without asking too many questions; sneaks away from home to see Gilda Gray dance; goes to ball games on Sunday; violates various laws which, in his opinion, were intended for other people; loudly demands the enforcement of the law when his own rights are encroached upon, etc. And withal, Mr. Average Citizen is a good fellow who loves his wife and babies, gives to charity, votes dry, drinks wet, goes to church, stands by his friends, etc., etc.

Now there is no miraculous way by which Mr. Average Citizen is transformed into a wholly bad man when he is placed within the walls. The average prisoner likes a drink, like his fellow man on the outside; and like him, too, he will drink anything, from hair tonic up to wood alcohol or down to gasoline. Oh, yes, and like Mr. Average Citizen, he contrives, every now and then, to make a still out of odd bits of tin cans, and in this makes "booze" from discarded potato peelings or other refuse. One such still was so cleverly concealed in the walls of one of the shops that, although we knew of its existence,

we were unable to find it for several weeks, and then only after a close search.

The average prisoner—and he is occasionally an ex-deacon—is a devotee of the goddess of Chance, and while playing cards are not permitted in Sing Sing they are occasionally made out of cardboard and used surreptitiously. The "freckled babies" are made out of bones filched from the garbage barrels—they sometimes turn up in the toe of a suspected darky's shoe.

The man on the outside who would sell Brooklyn Bridge and the sucker who would buy it have their prototypes within the walls. A few years ago a Sing Sing prisoner offered to sell commutations from the governor, and among his fellow prisoners who bit was one who had the highest intelligence rating of any man in the prison. I have not yet heard of anyone offering to sell the old cell block, but I have no doubt but what there are some saps both inside and outside these walls who would fall for the offer—the lure of something big for a little or nothing seems to be well-nigh universal. The "honour among thieves" tarnishes now and then just as honour sometimes will with those in high places and of high degree. I quote from Percival:

> In men whom men condemn as ill
> I find so much of goodness still;
> In men whom men pronounce divine
> I find so much of blot;
> I hesitate to draw the line
> Between the two, when God has not.

Almost any prisoner will lie like a gentleman to protect some fellow prisoner, and a few will lie for the love of the lie itself—a fact to which Bacon called attention in his essay on *Truth* and a fault by no means peculiar to inmates of a prison. The lies I have heard would fill many volumes, but most of them were of the harmless "gray" variety, and a few were works of art. I recall the case of one man caught smoking in the band room and, of course, reported. He explained to me that there was a crack in one of the clarinets and that the accepted way to find such a crack was to blow smoke into the clarinet. I knew he was lying, and he knew that I knew it; but it seemed to me that a masterpiece like this called for a suspended sentence, and it was so ordered.

There is no way for a Sing Sing prisoner to play the races, but I have good reason to believe that they make bets on prize fights, baseball games, and other sporting and political events. Cigarettes, which they are permitted to have, are substituted for money and thus it is demonstrated that there are many different ways of skinning a cat. If cigarettes were not to be had, no doubt something else would be used.

In this connection, a Sing Sing prisoner, when defending himself in the Westchester County Court against a charge of having what is commonly called "brass knuckles" secreted in his cell, testified that he could procure anything in Sing Sing except his liberty. This, of course, is not true, although it is inevitable that

there should now and then be one officer out of a force of nearly two hundred and fifty men who would bring in contraband, just as occasionally a policeman, a judge, or a preacher proves a traitor to his trust. Incidentally, this prisoner—the son of a prominent author—procured, from some of the prison fire extinguishers, acids which he planned to use in his escape; and it can be said to his credit, he prepared labels indicating that they were poison as a warning to any prisoner who might have thought he had found a bottle of potato peeling "hooch."

Most prisoners are religious, with a firm belief in God, and the true atheist is as rare within the walls as outside. Some are very devout, and a chaplain who was here for many years assured me that a number of prisoners of his acquaintance were "living the lives of saints." Church attendance is somewhat irregular, except for a few, but fully 90 per cent. of the men attend religious services during the course of a year. No man is compelled to attend any service, as both the chaplain and myself believe that a voluntary attendance is better than a forced one.

The average prisoner, like Mr. Average Citizen, is a firm believer in law and order, especially for the other fellow. Also, like his fellow man on the outside, he feels that for himself anything is O. K. if one can get away with it. Thus we have laws and law violators in Sing Sing just as in any other community. Sometimes, as on the outside, the violators escape detection and "get

away with it," but such instances are comparatively rare here.

Violators are apprehended by the prison's officers and reported at once for the warden's court, which meets Monday of each week. (No prisoner is ever reported on the evidence of a "rat," who is as odious to me as he is to the prisoners as a whole.) Once reported, a man's appearance at court is inevitable—there are no wires to pull and no fixing. Court action is direct—the charge is read and a few questions asked, after which I reach a decision without lawyers of any kind or a jury. I have previously consulted the psychiatrist's report, which enables me to fit the punishment to the man as well as to his offence. As a rule, on the occasion of the first offence—which is usually trivial from an outside standpoint—I suspend sentence, but where conditions warrant, the offender is sent to jail and kept there until he displays a willingness to abide by the rules. In all cases where a man loses part of the "good time" he can earn by good behaviour, as provided by the state laws, he also loses all or a part of his privileges, but both of these can be regained in due time by good behaviour.

Third-degree methods are not used to induce confessions in connection with the warden's court, and there is no clubbing, beating, kicking, etc. Nor are prisoners punished by showering, bucking, whipping, confinement in the dungeon, etc., forms of punishment such as were thought necessary in the old days in Sing Sing and

which are, I regret to say, still used in many prisons of this country. There is neither cruelty on the one hand, nor coddling on the other, but *common sense applied freely*. Fear is a transient emotion, quickly forgotten and negative in its effect. Respect which comes from fair and impartial treatment is lasting and positive in its effect. The result is that violations of the rules are now only about one third of the number under the old system, although there are more rules and more opportunities to break them than when the prisoners were locked in their cells when not at work. There are also fewer escapes, no riots, no sabotage, and no burning of prison buildings.

The use of the term anti-social in connection with criminals might lead one to infer that prisoners are antagonistic to all law and the judicial system, which includes, of course, peace officers. Such, however, is not the case. The average prisoner recognizes the necessity of the very laws he has broken and even respects and praises the policeman who arrested him, the district attorney who prosecuted him, and the judge who sentenced him, provided that they were fair and impartial, even though he may maintain his legal or actual innocence. On the other hand, prisoners have the most supreme contempt for the policeman who frames a man, the district attorney who is bent upon making a record for convictions, and the judge who is subject to political

influence. And, believe me, they know them and can give facts which, I am sorry to say, I have often found to be true.

The feeling of having been the victim of injustice is insupportable to almost any man, and in the case of a prisoner it is an incentive to further crime. The man who has been cuffed and beaten by police officials is invariably made worse thereby, and I am convinced that in some instances policemen have been killed by men who, fearing a beating, decided to shoot it out. Sometimes a man is permanently disabled by such a beating, and a few suffering from such injuries have had to be operated upon in the Sing Sing hospital.

Guards in Sing Sing do not carry clubs, canes, blackjacks, or guns, and they are not permitted to hit a prisoner, except in rare instances when they might be required to defend themselves. The fact that force and beatings are not necessary where every man is a convicted criminal and the guards are outnumbered 50 to 1 would appear to indicate that they are not necessary where the officers are 10 to 1 against a suspected criminal. It is of interest to note, in this connection, that the prisoners show uniform respect and courtesy to the honest, square-shooting "screw" who does his duty, but are disdainful to those who are lax and suspected of being easy to reach.

Most prisoners resent pity or sympathy and have no

use for a reformer of any kind; they are especially disdainful of the sentimental ones who talk about the "poor convicts." All they ask of anybody is a square deal right down the line. If they are supposed to get four slices of bread, they want four slices—and neither three nor five. On one occasion, through the incompetence and neglect of a civilian chef, the dinner beans were not cooked sufficiently, and the men registered a complaint in the only way they knew how—by rattling their plates and thumping the tables with forks. This was reported to me as a riot and I immediately ordered certain men to be locked up, causing a great deal of resentment and hard feelings. Upon investigation, I found that the beans were inexcusably undercooked, and I ordered the men released, because they did just what any red-blooded man—and I admire red-blooded hemen who stand up for their rights—would have done. I was wrong, and I admitted it, as I would expect any prisoner to admit a mistake he had made. There was more work done the next day than had ever been done before in Sing Sing.

One hears a great deal about "good discipline" in connection with prisons and prisoners. Just what is good discipline, and, one might add, why? The word discipline comes from disciple, meaning pupil. Good disciples are good pupils. Good discipline, then, involves conditions under which prisoners are good pupils. Discipline is not synonymous with harshness, inflexible

rules, browbeating, and the breaking of a man's spirit. If a man is ever to return to society he will need spirit and courage.

The old-fashioned, "hard-boiled" prison discipline made of a man an automaton with no will or purpose of his own. This made it easy for the prison officer, who merely thought of himself as tending convicts as a herder does sheep; but it didn't reclaim or reform any man. A dog in office is obeyed, but he is not respected; and not only prisoners, but also officers, were reduced to mechanisms by this so-called good discipline.

Sing Sing does not have the discipline characterized by the lock step, striped suit, silence, and shaved heads, but has good businesslike order and excellent morale. The prisoners in the shops are not handled as prisoners, but as workmen. There are no guards with guns standing on a raised dais and shouting curses. One sees in the shops a group of labourers busy at their tasks, with here and there a civilian instructor or foreman. The men are working under conditions almost identical with those under which they must work when they return to society. Isn't this plan called for by common sense?

If the purpose of a prison were merely the segregation from society of men convicted of crime, and if these men were never to come out alive, the problem of prison administration would be simple, as all that would be necessary would be to lock them up or chain them to their work and feed them like animals in a zoo until they

died; after which, their bodies could be converted into soap grease. But we live in a civilized country, and the same laws that send a man to prison provide for his release when the sentence which the judge imposed has been served. The real question involved is: Will he come out of prison better or worse?

A pickpocket could be "cured" of the practice by having his hands chopped off, as was once done, or by having them tied behind him until they shrivelled and became lifeless; but he would then be useless to himself and a burden upon society. A better procedure would be to train and correlate his mind and hands so that he could earn an honest living. Locking a man in a cell and secluding him from normal human contacts will not cure him of anti-social tendencies, but will, in fact, make it more difficult for him to adapt himself to social conditions.

For the sake of society, then, if not for the man, the prisoner should be surrounded with conditions as much like those on the outside as it is possible to obtain without, in any way, lessening the fact of imprisonment.

Prisoners are, therefore, permitted and encouraged to receive visits from relatives. There are, in Sing Sing, no screens or railings separating a mother from her boy, and while this may seem like an inexcusable concession to sentiment to those who pride themselves upon being "hard-boiled," I hold that the caress of a mother will go farther toward putting a wayward boy back on the right

track than all the cruelty which has in the past characterized man's inhumanity to man. Prisoners are also permitted to write and to receive letters from relatives and friends, subject, of course, to censorship by a prison official.

One learns to do by doing. The way to correct a man's anti-social tendencies is to place him where social tendencies will be developed. To my mind, the best way to do this is by means of the great American game of baseball and other socializing sports. Here, again, the hard-boiled gentry will groan, but it is constructive results that are wanted, and not vengeance. Society will gain nothing by cutting off its nose to spite its face. The man who plays baseball learns the necessity of rules, or laws, and coöperation with his fellows. He learns to subordinate his own desires to the good of the whole team, and learns, too, that he must "play the game" to win. He develops a sense of proportion and values and finds that there is no royal road, or loafer's route, by which a big score can be made.

Baseball is, therefore, encouraged after working hours in Sing Sing, and during the course of the year fully 85 per cent. of the able-bodied prisoners play the game in one or more of its various forms. On Saturday afternoons and Sundays a picked team of prisoners plays outside teams, among them a team sent once a year by the New York Giants. The prison nine is known as the Mutual Welfare League team.

The Mutual Welfare League was introduced into Sing Sing Prison by the late Thomas Mott Osborne, who had developed the plan in the Auburn State Prison at Auburn, New York. Each prisoner automatically becomes a member of the League upon his admission to prison and is entitled to vote for delegates who are chosen from the inmate employees of the various shops in the proportion of one delegate for each group of approximately forty-five men. These delegates choose from among their number an executive committee, which, in turn, selects a secretary and a sergeant-at-arms. The secretary is the official spokesman for the League in its relations with the warden, who is a trustee of the League, and the sergeant-at-arms and his assistants are charged with the policing of the grounds and assembly hall during recreational activities, and the mess hall during meals.

These activities of the League, by furnishing a constructive outlet for the group or gang spirit—which is inherent in all men—provides excellent training in social adaptation and adjustment. If a man is isolated from his fellow human beings, he becomes *unsocial*, and if the gang spirit is not directed into proper channels, it is apt to become *anti-social*. It is a truly remarkable and almost unbelievable sight to see approximately seventeen hundred prisoners freely walking about the prison grounds or gathered in chatting groups with no prison officer among them.

While the League has no part in the official administration of the prison, it simplifies many of the prison problems by creating, through its various activities, a morale among the prisoners that is conducive to good discipline. The prisoners learn through the League that after all their interests are identical with the interests of the community in which they live—the prison—and that infractions of the rules, escapes, and violations of liberty affect their interests by restricting their privileges.

Prisoners learn through the League that if they do not play the game squarely baseball teams from the outside will not play with them, and this would, of course, do away with their games. It is an interesting fact that the umpires are, as a rule, prisoners, but no outside team has ever complained of unfairness on their part. The men realize, too, that if a prisoner should "slop over" in the visiting room it would mean the restriction of this prized privilege; hence you will find nowhere a better-behaved group of men than Sing Sing prisoners in the visiting room, although there is only one unarmed officer in attendance. A woman walking through the prison grounds or buildings will hear no language and see no actions that would not be proper in the drawing room of her home. This is in sharp contrast to the days of the old system, when no lady could approach within hearing distance of the prison.

As the state makes no provision for the burial of

prisoners, except in prison grounds, the League pays for the burial in a Christian cemetery of those inmates without friends, or whose relatives and friends are unable to bear the expense of a conventional burial. Prisoners whose relatives are so poor as to be unable to visit them are occasionally advanced the money for tickets, and prisoners who have no friends or relatives are given small amounts to supplement the ten dollars the state gives them at the time of their discharge.

In order to provide the funds required by the League, the prisoners are permitted to stage an annual show which is open to the public for an admission charge. All preparations for the show, including the rehearsing and scene painting, are made after working hours and at the sacrifice of the prisoners' recreation time, and without any incentive except the thought that they are doing something for their fellow prisoners. During the week of the show, all of the prisoners lose their evening recreation period and remain locked in their cells, but this also is done cheerfully and without complaint. The show, it will be noted, is *not* for the entertainment of the prisoners.

The casual reader of the foregoing may, at this point, ask, "Is imprisonment, under these conditions, punishment?" This question assumes, of course, that the purpose of imprisonment is, or should be, punishment.

"Why punishment?" I may inquire in turn. There

can be but two reasons: one is for retributive vengeance; the other is as a deterrent to potential offenders. We may dismiss vengeance as being out of line with the ideals of a Christian civilization and fruitless as to results. As to deterrency, let me point out that to punish one man as an example to others is, in its practical aspects, as if a teacher should whip Johnny in school in Brooklyn to frighten Tommy in a school in the Bronx into good behaviour. All of the best schools of this country, it so happens, have substituted a system of rewards for the old system of punishment.

Assuming, however, for the sake of argument, that punishment is an effective deterrent, it logically follows that the greater and more severe the punishment, the greater and more effective its deterrency. In that case, we should immediately return to the punishments formerly inflicted in New York City. I quote from the records of the Court of General Quarter Sessions, February 2, 1696

Dom Rex vs. Elizabeth Moore and Mary Vincent.

Indictments found against the defendants for stealing some remnants of serge &c. to the value of ten pence of the proper goods &c. chattels of Isaac D. Peyster, mercht. to which indictment the prisoners pleaded guilty & prayed the mercy of the Court. Whereupon it is considered by the Court that the said Elizabeth Moore and Mary Vincent be this day at the hour of twelve o'clock at noon carryed to the publick whipping post & then and there be stripped from the waste upwards and receive on their naked backs twenty-one lashes each with burch rodds and that they remaine in custody till they pay their fees.

Also from the same court, August 5, 1724:

Dom Rex vs. Andrew Anderson.

The Grand Jurors have brought in a Bill against the defendant for stealing one pair of spectacles and the case thereof, of the value of ten pence of the goods of John Maclenan, upon which indictment he was arraigned and pleaded guilty and prays the mercy of the Court. Therefore it is considered by the Court that the said Andrew Anderson shall return to the place whence he came and there shall remain till Fryday next at ten o'clock in the morning and then at the Publick Whipping Post in the City of New York shall be stripped from the waste upwards and whipped fifteen lashes upon the naked back until he shall bleed once twice or thrice according to the discretion of the Justices and that he shall stand committed until he pay his fees.

Four Negro and Indian slaves, committed for murder in 1712, received the following sentences:

(Clause.)

. . . the defendant be carryed from hence to the place from whence he came and from thence to the place of execution and there be broke upon the wheel & so to continue languishing until he be dead and his head and quarters to be at the Queen's disposal.

(Robin.)

. . . the defendant be forthwith carryed from hence to the place from whence he came and from thence to the place of execution, and then be hung up in chains alive and so to continue without any sustainance until he be dead.

(Quaco.)

. . . the defendant be forthwith carryed from hence to the place from whence he came and from thence to the place of execution and there to be burnt with fire until he be dead and consumed.

(Tom.)

. . . he be carryed from hence to the place from whence he came & from thence to the place of execution, and there to be burned with a slow fire that he may continue in torment for eight or ten hours & continued burning in the said fire until he be dead and consumed to ashes.

Note also the sentence given in the case of a suicide in 1742:

As said Hendrik Jansen Smith has hanged himself on the branch of a tree, his goods shall be forfeit, the corpse drawn on a hurdle as an example to others and brought to the place where it was found hanging and there shoved under the earth; further a stake or pole shall be set there in token of the accursed deed.

Such punishments, however, did not prove and never have proved effective because, as Beccaria pointed out:

In proportion as punishment become more severe, the minds of men, as a fluid rises to the same height with that which surrounds it, grow hardened and insensible; and the force of the passions still continuing in the space of 100 years the wheel terrifies no more than the prison.

Punishment is not a specific for crime and cannot make for good tendencies. Darrow says: "It is not the terror of brutal punishment that holds the units of society in their place. It is customs and habits. It is long familiarity with the beaten paths. People think and act and live as they are wont. They stay in grooves. Any sudden change jolts them from their ways and sets them loose to find or make other paths. To believe that men

are kept in a certain line by fear is a crude conception, at variance with experience and psychology alike."

Even though it might be rational and desirable to eliminate punishment entirely in dealing with the prisoner, it is impossible under the present system of handling convicted criminals, because *imprisonment is of itself punishment.* If anyone doubts this fact, let him imagine himself in the finest hotel in the world, but absolutely limited to its confines without privilege of leaving, even for an hour, over a period of a year, five years, or ten years. No luxury it might afford, no comfort, no pleasures—with the unlimited privilege of receiving all visitors who might call or the freedom to communicate at will with friends by mail and telephone—would offset the loss of freedom. This would be real punishment to any man.

Now substitute for the room in the finest hotel a narrow, dark, cold cell in a building that has been condemned as unsanitary for more than sixty years; and for the luxuries of the hotel fare, meals which cost only twenty-one cents per day. Add labour on the coal pile, or in poorly lighted shops, with out-of-date machinery, for a daily wage of one and a half cents. Then limit the visits received to one a week, and place a limit and a censorship on both outgoing and incoming mail. Take away a man's citizenship and let him realize that no matter what he does in the future the world will never forget or really forgive; that he is a

marked man to his dying day. You will realize then that, regardless of an occasional baseball game or moving-picture show, imprisonment is punishment—real punishment—and the fact that so many men can bear up under its blighting effect is to their credit and proves that fortitude and honour exist among thieves.

VI

GETTING THE GATE

Time alone, excepting the governor's pen and Death's cold hand, can unlock the steel-barred prison gate which opens into the world that lies outside the high walls of Sing Sing. The law is inexorable; it demands reparation in *time,* which is the essence of man's life; the sentence can be fulfilled only in the days, the weeks, and the months that drag their slow length into years.

Five years, ten years, fifteen years mean little beyond the hurried passing of time to a man in the busy whirl of life on the outside, but to the prisoner it means years blotted out of his existence because, at its best, life behind prison walls is empty and meaningless. The only difference in the final analysis betweeen a death sentence and one of five or ten years of penal servitude is the *time* taken from a man's life. The fact that more than 90 per cent. of the sentences for periods of more than two years are given in terms of five or its multiples would appear to indicate that justice cannot be measured out in terms of threes, fours, sixes, and sevens.

This matter of duration of sentence—time to be served—has varied so widely from generation to generation, even with judges sitting at the same time in the

same district and sometimes in the same courthouse, that one who studies the figures is forced to conclude that the scales of justice do not register uniformly. I find, for example, that the usual sentence for rape in the Sing Sing district is now 5 years, as compared with a life sentence one hundred years ago. Obviously, the sentence is too lenient now, or it was too severe then. (Several states of the United States still impose a life sentence or death for rape.) Sentences for robbery now average 20 years, as compared with 10 years fifty years ago. Murder in the second degree carried a life sentence thirty years ago, but this has since been reduced to a parity with the average sentence for robbery.

Sentences for rape from one county in the Sing Sing district have averaged 10 years for the last ten years, as compared with an average of 2 years for another county in this district during the same period. There is, incidentally, no more rape pro rata for the general population in the latter county than there is in the former. However, the county with the highest average sentence for robbery has by far the highest pro rata of robbery, and this also applies to burglary.

I find, in fact, no consistent correlation between length of sentence and amount of crime. Robbery has increased in New York City in the face of longer sentences, while grand larceny has decreased despite shorter sentences. A sentence of fifteen years, or even ten years —both of which are common here—is decidedly the

exception in England, where the average sentence is only about half what it is here. And England has less crime proportionately than any other great nation. The logic that leads one to conclude that long sentences decrease crime is as fallacious as the logic that led a prisoner, who had never been away from New York's East Side until he came to Sing Sing, to the conclusion that our black hens should lay black eggs.

It is not the possibility of a long sentence, but the effectiveness of the temptation, that determines the proportion of lawbreaking. No sane person commits a crime in the expectation of getting caught, hence a possible sentence of fifty years deters little, if any, more than one year would. Most men will smoke or drink, even in the face of a doctor's warning that they are endangering their health and lives, because danger seems remote.

I am inclined to believe that long sentences tend to increase crimes of violence because the criminal prepares himself to shoot his way out, if possible, in the event that an attempt is made to capture him. A recent example of this was the attitude of two young robbers who said to their victims: "You boys keep your traps shut till we get away. This means life to us if we get caught, so we are going to shoot to kill if necessary." The possibility of a life sentence did not prevent them from committing a robbery, but, on the other hand, it caused them to prepare themselves to kill, a common precaution

in connection with robbery now, although rare in former years.

There has been a tendency to regard a prison sentence as a specific for the prevention and cure of crime in much the same sense that quinine is a preventive and cure for malaria. This assumption has, in turn, led to the practice of giving a large dose of imprisonment for so-called major crimes and smaller doses for the others, the exact dose being prescribed by statute or arbitrarily fixed by the sentencing judge. The fallacies of this assumption and procedure must be obvious to any thinking man.

Let us note some examples of "how it works." One man is sent to prison for a minimum of twenty years, for murder in the second degree. He was a good shot and hit his mark, or he knew the exact amount of poison to use. Another man is sent to prison for a maximum of five years, for assault in the second degree. He was a poor shot and missed a vital part by less than an inch, or, in his ignorance, he gave so much poison that it counteracted itself and failed to kill. I ask you if one man is not potentially as dangerous as the other—the intent of both was to kill.

Now the practical purpose of imprisonment is, primarily, to protect society. Correction, or the reformation of the individual, is secondary. Punishment is incidental and, while it serves no practical purpose, can-

not and should not be entirely avoided. Society's welfare is paramount to that of any minor group of individuals.

From the standpoint of protection to society it might be advisable to keep the man convicted of assault, second degree, imprisoned as long as the man who was committed for murder, second degree. In fact, the former may, on account of mental, physical, or moral weakness, be impossible of reformation and, therefore, so potentially dangerous to society as to warrant his imprisonment for life. The latter, on the other hand, may be capable of correction within a few years, after which he could be restored to usefulness in society. A sick man is not kept in a hospital for an arbitrary period, but only until he is cured; an insane man is committed to an asylum indefinitely, but is released if his sanity is restored. Now a criminal is not, as a rule, either sick or insane, but the practical aspects of the problem are identical.

Criminal acts—violations of law—cannot be measured and given definite evaluations, like commodities, merchandise, and live stock. Crime varies like disease, which must be treated in its relation to the individual and with consideration for the virulence of the particular disease. A dosage of drugs or imprisonment that will cure one man may be inadequate for another and too much for a third man.

Under the determinate or definite sentence system,

which is based on the idea of retributive atonement through punishment, a definite period of imprisonment was fixed by the trial judge, and the man had to be released on the day his sentence expired, regardless of whether or not he had been reformed by his imprisonment. As such a procedure is fraught with great danger to society modern penologists have endeavoured to secure the enactment of laws that would provide for a prisoner, no matter what his crime, being kept in prison until such time—be it sixty years or sixty days—as he could be safely returned to society. This is known as the indeterminate or indefinite system.

Law is largely based on precedent, hence it is exceedingly difficult to inaugurate a new procedure of any kind, particularly when it relates to crime, upon which subject the average man is apt to be more deeply prejudiced than he is on race, religion, or politics. It has, therefore, been impossible, to date, to secure in this state more than a small part of the loaf sought. This legislation, which was secured in 1901, provides for a so-called indefinite sentence system that, as a matter of fact, has both a definite minimum and maximum and is, therefore, indeterminate only between these limits.

Under this law, the judge, in his sentence, sets a minimum and a maximum within the limits fixed by statute for the specific crime. For example, the law prescribes a minimum of 15 years and a maximum of

life for burglary, first degree. The sentencing judge may, therefore, give a sentence of "15 to life," "15 to 20," "20 to 40," and so on. The statutory maximum for grand larceny is 10 years, hence the judge may give a sentence of "2 to 10," "3 to 6," "5 to 10," and soon, but the minimum cannot legally exceed half of the statutory maximum.

Many people have erroneously inferred that in providing a minimum term the indefinite sentence law has had the effect of reducing the time which prisoners serve for their crimes, as compared with the old definite sentence. As a matter of fact, the average minimum sentence of to-day is approximately twice the average definite sentence of the "hard-boiled" prison period of 50 to 75 years ago. As a number of prisoners are held for a period exceeding their minimum, and some for their full maximum, the average time a prisoner serves now is more than twice the time formerly served under the old definite sentence system.

It has also been mistakenly assumed that the Board of Parole, which functions in connection with the indefinite sentence plan, can release a prisoner at any time. No one but the governor of the state, by pardon or commutation, can shorten by a single day the minimum sentence fixed by the sentencing judge, less such time as the prisoner may, in some instances, earn under the law. While the Board of Parole can, and often does, hold prisoners longer than the minimum, it cannot hold them

beyond the maximum, even though, in the judgment of the members, the man is a menace to society.

Parole must not be confused with probation, which is granted by the courts in connection with suspended sentences, or with commutations and pardons which can be granted only by the governor. Parole makes release from prison difficult instead of easy, as has been rather generally assumed.

Under the present law, a prisoner with an indefinite sentence meets the Board of Parole at its regular monthly meeting preceding the date for which he is, according to the law, eligible for release. Three months prior to the Board's meeting, the prisoner makes an application for parole, and in the intervening period he is subjected to a careful examination by the prison psychologist, psychiatrist, and physician, who determine his mental status and general physical condition. A school report is made by the head teacher; a work report by the prisoner's company officer; a conduct report by the principal keeper; and a general report by the chaplain. The district attorney of the county from which the prisoner is sentenced is communicated with and asked to state the facts relating to the crime. Letters of inquiry are also sent to acquaintances of the prisoner, and these are supplemented by an investigation made by a trained field investigator working in conjunction with the psychiatrist. The prison parole officer investigates offers of employment which

prisoners applying for parole are required to have. The prisoner's previous court record, if any, is reported upon by the identification department. Finally, I make a report as warden, this report being based upon my observation of the man in all of the activities of his prison life and taking into consideration such apparently minor but really important facts as who his visitors have been and his correspondence with relatives and friends.

The prisoner, meanwhile, is required to secure as sponsor and parole supervisor some one of the organizations recognized and approved by the Board of Parole, namely: Prison Association, Catholic Protective Society, Jewish Board of Guardians, Salvation Army Prison Department, Brooklyn City Mission, and Christian Science Prison Committee. These organizations conduct an investigation of their own, which is also available to the Board of Parole. No prisoner is ever paroled without supervision by some responsible individual or organization.

From the foregoing it will be seen that the Board of Parole has as complete information about each prisoner who comes before it as it is possible to obtain—far more than judge and jury ever have in any case. This is supplemented by a personal appearance before the Board, which gives the members an opportunity to question and "size up" each man in the matter of personality and other important human factors that

cannot be adequately conveyed by means of written reports.

The Board of Parole of the State of New York is now composed of two prison officials, the state commissioner of correction and the warden of the prison in which the prisoner is confined, and a third man whose training and viewpoint are essentially social. This Board, it will be noted, is neither a political nor philanthropic organization, but is composed of practical men who *know* prisoners and understand the crime problem.

The Board's meetings are not in the nature of "star chamber" proceedings, but are attended by representatives of all of the various custodial organizations, and are subject to the fullest publicity, although no attorney or other person is ever permitted to appear before the Board on behalf of any prisoner. The Board meeting is in no sense a retrial, although, naturally, the facts of the crime are considered as they have a decided bearing upon the prisoner's possible danger to society. With rare exceptions, men convicted of sexual crimes or offences committed while armed are held, unless they were sentenced for the full time provided by the statutes. A prisoner who has a previous court record is also usually held, despite the fact that legally he may be only a first offender although actually a fifth or even a tenth offender.

The prisoner's conduct record while in Sing Sing is also considered, but, while a perfect record has weight,

it does not by any means assure parole, unless the other factors are preponderantly favourable. Sentiment—either hate or pity—plays no part in the Board's deliberations, as it is not actuated by the motives that lead a prosecuting attorney to fight for a conviction or a defence attorney to fight for an acquittal. The one and only question upon which the Board concentrates is: Is the prisoner a reasonably safe risk for conditional release under supervision?—is he likely to "make good" outside? If, after considering *all* of the facts, the decision is affirmative, the prisoner is ordered released; otherwise, he is held for an additional period, or until such time as he has completed his full sentence and must, under the law, be released.

Parole, it will be noted, is *conditional release under supervision* and not unconditional release without supervision, as under the old definite sentence law. The man is subject to the prison authorities, and parole may be revoked at the discretion of the Board at any time prior to the expiration of the maximum period prescribed by his sentence. Among the rules of the Board to which a man is subject to rearrest and return to prison are the following:

1. The parolee must abstain from the use of intoxicating liquors of any kind, and shall not frequent places where they are sold.
2. He shall proceed directly to the place to which he is paroled, and report.
3. Upon his arrival at the place to which he is paroled he shall

immediately write to the Commissioner of Correction at Albany, upon the blank furnished for that purpose, stating the date and hour of his arrival there, and give his full address. This report must also be signed by the custodian to whom he is paroled.

4. He shall not change his place of employment or residence, nor leave the State of New York without the permission of the Commissioner of Correction in writing.
5. He shall avoid evil associations and disreputable resorts, and respect and cheerfully obey the laws, and conduct himself at all times as a good citizen.
6. He shall make a written report to the Commissioner of Correction on the first day of each month for the month preceding upon a blank which will be sent to him each month for that purpose, showing his earnings and expenses for the month and a full statement of his surroundings, occupation, and recreation, his successes and failures. This report must be signed by him, also by his employer or the person to whom he is paroled.
7. In the event of sickness or the loss of his position for any reason, he shall immediately report the fact in writing to the Commissioner of Correction, or if unable to do so, have such report made for him.
8. Every paroled prisoner who fails to report in writing to the Commissioner of Correction on the first day of each month *until he receives his absolute discharge*, or who fails to comply strictly with all the terms of his parole, will be declared delinquent and a warrant will be issued for his arrest, and he may, *whenever* arrested by virtue of such warrant, be thereafter imprisoned for a period equal to the unexpired term of his sentence at the time such delinquency is declared.

I might say in passing that rules one and five, which Mr. Average Citizen violates without compunction, mean just what they say as they relate to the paroled man, and he is actually returned to prison when appre-

hended for such violations. I am positive, from my observation of both, that the average paroled prisoner lives as clean and law-abiding a life as Mr. Average Citizen.

As the indefinite sentence law was made to apply only to first felony offenders, the second and third offenders receive definite sentences. (Fourth offenders are now sentenced for life.) These prisoners appear before the Board of Parole as a matter of formality, but the Board is, under the law, without power to hold them for a single day beyond their sentence, less such time off as they may earn in accordance with statutory provisions. It is these men, who are more or less habitual offenders and who must be released when their sentences expire, for whose release the Board is criticized by editorial writers and others unfamiliar with the plain provisions of the law.

When at last the day arrives for the prisoner to "get the gate," he goes, at 8 A. M., to the tailor shop, where he is "dressed out" in a suit which, according to the prison law, must not have cost more than twelve dollars. He is then taken to the "front office," where he is given ten dollars together with a ticket, and is told to "make good." The gate opens and he is gone. If to the readers it seems that it has taken me a great deal of time to reach the gate in this chapter, I assure them that the last few minutes before the prisoner "gets the gate" seem infinitely longer to him.

A CLASS OF PRISONERS

One of four schoolrooms and a class under the head teacher.

Happy though he is with the prison gate behind him, the ex-prisoner faces an extremely critical situation. How many men, regardless of character and ability and the coöperation of friends, could start all over again, with only ten dollars and a cheap suit of clothes, and make good? Consider the added handicap of the ex-prisoner. In the first place, he is a marked man—an ex-convict—who has inevitably lost some, if not most, of his self-respect and confidence. He has lost the pride that goes with citizenship and any standing he may have once had among his fellow men. He is usually without friends, and those he may have are apt to be lukewarm, because even casual intimacy with an ex-convict is likely to reflect upon them. Is it, then, any wonder that he sometimes seeks the friendship of those whose influence is not good for him?

His years of imprisonment have thrown him out of gear with life, and he finds it difficult to pick up the threads of normal existence. He is often unfitted for the job which was offered to him while he was still a prisoner at wages that take advantage of his predicament. If, later, he finds better employment and is making good, he is likely to be recognized by some snoopy, long-nosed meddler, or some officious detective or police officer who feels it a duty to tell the employer of his prison record. Or, if this does not happen, the fear of exposure is apt to prey upon his mind to the extent of hampering him in his work.

"Let him be honest with his employer and tell him of his previous record," you will say. Now, I ask you frankly, would you hire a man who walked up to you and told you he was just out of prison? The chances are more than a thousand to one that you wouldn't, because you would be afraid that it would injure your business and business standing if it became noised about that you had an ex-convict working for you. And even if you had the backbone to face this contingency, you might find that your other employees might refuse to work with the man, even though they lived in glass houses themselves.

You might, of course, be the one man out of many thousands who would act as one of the greatest automobile manufacturers in the world did. When told that his sales manager had a prison record, the manufacturer told the informer that he was well aware of the fact and was looking for some more men like him to fill important places in his business. As a matter of fact, though, you are more likely to be like a big-hearted philanthropist I know, who, although greatly interested in prison reform, frankly admits that he would not himself employ any man with a prison record.

Society demands that the parolee make good but pursues the short-sighted policy of giving him even less of a chance than it gives the average man, who, though he is likely to have violated the criminal laws many times, has never been in prison. It expects the parolee

to get up after it has knocked him down, but, like certain prize fighters, it stands over him ready to knock him down again as he struggles to his feet. Give the ex-prisoner a sporting chance. He has paid his bill and is entitled to a receipt.

The attitude of society toward the ex-prisoner is illustrated by the following incident which, on the whole, is typical of many I could give from my own experience: When the war broke out, the younger son of a well-known New Yorker enlisted, against his father's wishes, as a buck private. He was among the first to go over, and in the fighting he was seriously wounded and received several decorations for bravery. When he got back, badly broken both in spirit and body, he found it difficult to find employment and, discouraged, he began to drink heavily.

Finally, however, he did get a job with a firm selling condemned army supplies and equipment. Then he fell in with some sports and began to take chances. Old story: needed funds, forged a check, and was sent to Sing Sing under an indeterminate sentence of five years. While here he studied mathematics and became an expert accountant. He went out of prison rehabilitated and ready to face life. He found a position with a real estate firm where he was placed in charge of some gilt-edged special accounts. One day a client of the realtor called and lodged a complaint with his brokers. The client said he objected to doing business with a firm

that employed an ex-convict, "We know all about his past," said the head of the organization, "but we regard him as a competent and honest man." Argument was useless.

The firm explained the situation to the young man, regretted the alternative, and accepted his resignation. The young fellow went immediately in quest of another job. In all instances he was asked for references. He gave the names of his former employers. They were loud in his praises, but felt obligated to state the fact of his imprisonment and say that he had done time for forgery.

The outlook was desperate. Honest occupation was denied him. At last, broken and disheartened, he wrote me and announced his intention of becoming an enemy to society.

> I can find friends only among the crooks [he said]. It was very fine of you to say that you felt sure that I would be given a chance to make good. You meant it all right, but it just is not true. I ask for a job, and the people who could give me work shake their heads and offer me charity. To hell with the charity. I had rather be a criminal than a bum. I only want a job where I can earn an honest living. But it is no use.

I immediately got in touch with his father. Did I say father? He was in name, but never had been in the companionship and helpful guidance that a real father gives to his son. He had been a hard "don't" master, and never a helpful "do" father. He was unforgiving, saying that the boy had made his bed and could lie in it for all he cared.

I was strictly up against it. I sent my chauffeur for the young man and told him to bring him to me at once. We had a good talk; he had the first good feed in weeks at my table; and I gave him a guest bed in my house, while both he and I looked for work for him. Finally, through our concerted efforts, a job was landed. It was not much, but it was the "chance" he wanted. That was more than two years ago; to-day he is near the top of the organization for which he is working. But it was a close call. Suppose he had not written me that letter!

Another phase of the difficulties besetting the ex-prisoner on parole is ably covered by J. O. Stutsman in *Curing the Criminal:*

Society severely criticizes the system if a parolee relapses into crime, but just take a survey of the array of temptations and criminal-suggestions in any community. If the man's weakness is sexual, his baser impulses are stirred by loose women on the streets, sparsely dressed women on the beaches rivalling the goddesses of the ancients, suggestive poses and appearances on the stage, voluptuous pictures on the screen, and almost nude pictures in the magazines. If he is predisposed to drink, there are many "blind pigs" and bootleggers near at hand, and many of his would-be friends consider it the minimum of hospitality to offer him intoxicants. If his weakness is adventure and high life in the automobile, the streets are full of cars, and we have all been caught in the wild rush of their ecstatic pleasure. They are parked everywhere in tempting array. The air is hideous with their wild din. Expensive cars are driven by cheap clerks; homes are mortgaged to buy them, and he feels much out of the world if he does not own one. If his weakness is the allurement of money, he beholds the tempting lucre displayed on every hand and luxuries indulged in by others which he cannot enjoy. Enormous payrolls are conveyed carelessly

through the streets; the papers are full of vivid pictures of stores being robbed and thieves getting away with easy loot. They give publicity to the most mediocre exploit of a criminal nature. Turn wherever he will, his environment lures him downward, and then downward. He hears of countless sharp practices in higher circles in handling money, bonds, and stocks, as immoral as the crimes committed by the ordinary thug. The example of these practices, and the questionable methods of high finance so often unpunished, have a decidedly immoral influence upon the young man who can be tempted to employ cruder methods to obtain his ill-gotten money. To his way of reasoning, it is no greater crime to steal an automobile from a capitalist than it is for the capitalist to steal an entire corporation, or graft thousands of dollars building a road on which the automobile is to be operated. Who can deny that for once he is correct?

Considering the numerous difficulties the ex-prisoner on parole must overcome to make good, the wonder is not that a few fail but that so many succeed. A prominent American author recently stated that the obstacles thrown in the way of the ex-convict make it impossible for him to "come back." This is not quite true, however, for most of them succeed despite their heavy handicaps. I personally know of hundreds who have made good in a large way and thousands who have regained an honourable and useful place in life.

One former Sing Sing prisoner is now the financial representative in the United States of one of Europe's greatest governments. Several hold important positions in leading banks of New York City, and others have advanced to important positions in Wall Street. A few have become successful detectives, and one is now chief

of detectives of a great railroad company. Several have attained some scientific prominence as pathologists and laboratory workers, and a few have become successful artists, musicians, and actors. A number have built up successful businesses, and I know some who have honestly accumulated substantial fortunes.

Now, I would not be so bold as to claim that the prison contributed anything toward their success, because personally I believe that, on the whole, imprisonment has little constructive influence—its purpose is protective. However, I have known a number of cases where a man has found himself while in prison. This is particularly true of the thoughtless drifter and the man who in his ambition to make a big business success has lost perspective and sense of proportion.

I will say that very few men now leave Sing Sing any worse than when they entered. The failures of parolees are not due to the prison, but to conditions which shaped their thoughts and habits long before they came to prison and the difficulties which confront them when they leave prison. A prison is not a school of crime—a single poolroom or speakeasy is a college in crime as compared with the average state prison. Ask any man who has been in both places!

Of the great bulk of the men who go out of Sing Sing, we know only that they make their parole successfully, but this involves making good in the sense in which Mr. Average Citizen does. The prison records for the last ten

years show that only about 15 per cent. of the first offenders on parole have been returned to prison. And about 5 per cent. of these were for violations of minor rules and only 10 per cent. for felonies for which they received new sentences.

From a casual reading of the newspaper headlines, one might infer that most of the crime is committed by men on parole. This has led some otherwise well-informed people to criticize the principles of parole and advocate its abolition. They evidently overlook the fact that marriage fails in about the same proportion as the parole system. Shall we do away with marriage on that account? Bankers, policemen, and preachers sometimes fail in the trust that is placed in them. Shall we then do away with the banking system, police system, and religion? Be fair with the parole system and the parolee!

As has been previously stated, the Board of Parole has no power to hold the second and third offenders, and its supervision of them is vitiated by the law. The percentage of second offenders who make good in the sense that they do not return to prison is approximately 55 per cent., and of the third offenders, about 53 per cent. Fourth offenders, who now receive life sentences as habitual offenders, formerly made good at the rate of about 45 per cent.

Most people have the impression that a prison "repeater," often referred to as a "hardened criminal," is a violent and dangerous man with murderous tendencies,

and that the habitual offenders are wholly depraved men who have been guilty of unspeakable crimes. Now, as a matter of fact, such men rarely commit a crime of violence; they commit crimes against property (burglary, forgery, and larceny) rather than crimes against person. With extremely rare exceptions, crimes of violence are committed by men without previous prison records. This is not the popular conception of the matter, but it is a fact, nevertheless.

The repeater, from a prison administrative standpoint, makes a better prisoner than the average first offender. The fourth offender, for example, is almost without exception a trustworthy and good hard worker in prison. He is almost never callous, and instead of being a bad influence upon younger prisoners is nearly always a good influence who cites himself as an example of the fact that crime does not pay. The explanation of the failure of repeaters on the outside is in my opinion the fact that the majority of them become institutionalized during childhood and thus lose the self-confidence and initiative. The resultant makes for a good prisoner but an ineffective social unit. Others in this category are usually of psychopathic make-up. Such men are proper subjects for custodial care, but no good purpose is served in wrongly portraying them as dangerous, hardened criminals.

No one who knows me well will accuse me of being soft-hearted or sentimental. I recognize the necessity of

prisons for those who violate the law, and the further fact that many of these men should for their own good as well as for the welfare of society be kept in prison until Death unlocks the prison gate, but even so, and regardless of their crimes, I am led to believe that many of them will get to and through that greatest of all gates where some of those who cast stones at them will be turned back.

VII

WHY I CHANGED MY MIND

On March 1, 1904, after having served three years in the Regular Army of the United States, I was appointed a guard at Clinton Prison, located in the Adirondack Mountains at Dannemora.

Since that time, I have held positions at Auburn Prison, the New York State Reformatory at Elmira, and the New York City Reformatory. I was superintendent of the latter at Hart's Island and then supervised the removal of the institution and its prisoners to a farm colony at New Hampton, Orange County, N. Y. This background can hardly be considered a fertile soil for the development of a real "sob sister."

During all this time I was a firm believer in the social necessity of capital punishment.

On January 1, 1920, I was appointed warden at Sing Sing, undoubtedly a most difficult prison for an executive officer. I still believed in capital punishment, and realized that, under the laws of the State of New York, it would be necessary for me to assume charge of legal executions.

If you, the reader, were directed by name and official title to kill a designated human being, even though the

man was a convicted murderer, it would make you pause—and think. It was my duty to determine the day, in fact the exact hour and minute, death should occur. This gruesome task caused me to seek all obtainable facts relating to capital punishment; not only in America, but in all civilized countries of Europe. No vital problem in the world has been considered with so little accurate knowledge.

I had read, with interest, that, in the Canadian Arctic, 600 miles from Dawson City, two Eskimos were hanged on the gallows by Canadian Mounted Police, pursuant to a sentence of death duly and legally pronounced according to the law of the Dominion Government. The men who were executed had been themselves the executioners, according to due tribal form and ceremony (to them as legal and binding as any white man's laws), of an Eskimo murderer. But because their assumption of the function of executioners was sanctioned only by tribal law, not by the Dominion law, they paid the identical penalty which a few months before they had meted out.

I had also read the story which comes from French Guinea, of Hespel, who was assigned as executioner of the colony. When convicts were to be put to death, his was the duty of guillotining them. It would seem that he, of all men, should have felt the deterrent effect, if any existed. Yet he himself committed murder and was tried and convicted.

I realize that the most horrible crime that can be committed is the killing of a human being, and, likewise, the most horrible punishment that can be imposed is the killing of a human being; the first the community could not prevent; the second is accomplished with premeditation and deliberation.

Ignorance never rightly settled any question, and it is much easier to be critical than to be correct.

Most of us who take sides on the question of capital punishment do so instinctively, without ever questioning ourselves as to the reasons for our feeling as we do. We form an opinion early in life, and we cling to it, never obligating ourselves to reëxamine our reasons for our belief.

Why is there so much interest in capital punishment at present? It is due to the awakening of the public to danger in the growing murder rate.

Three things that will always arouse interest in this subject are the execution of an innocent man, the commission of an unusually atrocious murder, and the threat to the safety of life in general by sudden social disorder or crimes of violence. The cause at present is the alarming increase of homicide in America.

The death penalty originated among primitive savages by whom it was used to eliminate their unfit; that is, the deformed, crippled, insane, aged, and others, including the overfat, who hampered the family or tribe in its activities.

The fundamental theory of punishment is that it is used for deterrence, for retribution, and for reformation, and in the case of capital punishment there is a further basis urged for its retention—the need of eliminating those who menace the life and security of society.

Reformation, obviously, cannot be accomplished by the death penalty.

The argument that capital punishment is necessary as a process of elimination is faulty; it is unscientific in its application.

The idea of punishment of any type solely as retribution is gradually disappearing. History condemns capital punishment. It must not be forgotten that the death penalty has been tried before on a colossal scale, judged, and found wanting. There is no place for sentiment either of hate or sympathy in dealing with capital punishment, any more than there is in business life. What is needed is common sense and understanding.

Death fades into insignificance when compared with life imprisonment. To spend each night in jail, day after day, year after year, gazing at the bars and longing for freedom, is indeed expiation.

Executions, like war, brutalize men; the more that take place, the greater the number of people there are to execute. The man about to die becomes a hero.

The executed man passes quickly from the mind, while the criminal in life imprisonment remains as a living symbol of the awful consequences of an awful act.

The United States is a nation that leads the world in scientific progress, that boasts achievement in the adjustment of industrial relations and in dealing with complex social and welfare problems, yet hangs its head in shame at 11,000 homicidal deaths each year. In the face of this, why do we cling blindly to capital punishment? In spite of many signs that point to its positive failure as a deterrent, why do we retain our faith in its efficacy? Why do we believe that a punishment applied to one of every eighty homicidal crimes will deter others? It is an actual fact that where the murders are numbered by the thousands, those who go to the chair or the scaffold are numbered by the tens. Even in England statistics show that less than 5 per cent. of homicidal crimes result in imposition of the death penalty. People say that capital punishment might deter if it were enforced. The point is that until the characteristics of mankind change, crime can never be overcome or eradicated. That is why, as a punishment, the death penalty will always remain a failure. The causes of crime are economic and sociological with roots far deeper than mere punishment can hope to affect. We find that whatever deterrence there is in punishment lies in its certainty, not in its severity. If the solution of the crime problem is severity, we are illogical if we stop short of its limits.

I am not asking that we abandon a scheme of punishment that is in successful operation. We have capital punishment and have had it for generations, yet we

have a high homicidal rate in shameful contrast to the rest of the civilized world. We are just as far to-day from successful solution of the homicide problem as we have ever been.

If capital punishment is a success, if it is a deterrent, why was it that when England had 240 capital offences and later, in Blackstone's time, 160, crime was far more prevalent than it is to-day?

In England, as late as 1820, the following acts were punishable by death: gypsies remaining in the kingdom one month; the unlawful killing, hunting, or stealing of deer; the unlawful stealing of fish out of any pond; the injuring of Westminister Bridge or any bridge; the cutting down or destruction of growing trees; the sending of threatening letters.

Most of the American Colonies made twelve offences capital. Connecticut made blasphemy a capital offence, and this applied also to a child over sixteen who would curse or smite its parents.

In Massachusetts, twenty witches were executed in the short space of eight months. When they stopped killing witches, witches ceased to exist. It has been said that witches really did *not* exist, but that the murderer is a *real* menace. The point is that the community thought it necessary to exterminate both.

In England, in 1830, a petition was signed and presented to Parliament by 1,000 bankers from 214 towns, stating they found, by experience, that infliction of

death or even the possibility of death deters the prosecution, conviction, and punishment of the criminal and thus endangers the property it is intended to protect, and, therefore, requested that forgery be removed from capital cases.

Why did pickpockets, for whom detection meant death, ply their trade at public hangings in the very sight of the gallows?

Why do states which have the most legal executions also have the greatest number of homicides in proportion to population?

Why do those states where lynchings are most frequent also have the greatest number of murderers?

If the fear of death is a deterrent, why is it that a man will commit murder in prison, where the chances of escaping detection are one in 10,000?

What explanation is there of the fact that several counties in New York State had no murder convictions for a number of years, some of them for long periods, yet when the first conviction for murder occurred with the subsequent execution of the murderer at Sing Sing, it was immediately followed by a number of murders?

I ask that others will bring to this problem an open and unbiased mind, will ask themselves these questions and answer them without prejudice. I find that those who have given real study to the subject usually favour the abolition of the death penalty.

To have been retained so long in our system of pen-

ology, capital punishment must have or appear to have some justification. Let us see whether it is really necessary, whether it has ever had any measure of success in dealing with capital crime.

In the first place, is death necessary in order to balance the debt of the individual to society for the wrong that has been done? This conception of punishment is based on the old belief of retaliation, on the Mosaic Law of "an eye for an eye"—and if we are to follow this old Mosaic Law, why not, with equal logic, follow the Biblical injunction, "Thou shalt not kill"? This theory of retaliation is not used in fixing punishment for other crimes. The state should not stoop to the ethics of the common murderer. The balancing of that debt is a matter between the man and his Creator. The light of modern penology is beginning to demonstrate that capital punishment is not a solution but an avoidance of the real problem; that many crimes, even capital crimes, are the results of maladjustment of the person and not an evil that is inborn and which cannot be cured but must perish with the individual. As a general proposition, I do not subscribe to the theory that all moral evil is the result of physical evil.

Let us consider for a moment the types of individuals who commit these 11,000 capital crimes each year. Many murders occur under the stress of violent emotions, others are the result of a sudden flash of anger. Where is the man that has not at some moment in his

life had the overwhelming impulse to kill? Sometimes the difference between the penalty of death and that of a brief period in prison is but the space of a few inches measured on the victim's body, a difference due to the slightest failure of coördination between the mind and the muscular reaction of the man wielding the gun or knife. The impulse to kill is the same. The one possessing coördination and skill succeeds. Still, other murders are committed because of trifling causes, a desire for revenge or some fancied grievance. Of those who commit these crimes not a few are medically, if not legally, insane. These are border-line cases, men who, if they had not committed the particular crime, would sooner or later have given evidence of insanity. After commutation from death, many have gone insane; that is, have been declared legally insane. Where was the line of demarcation? Would they not have been just as insane at the time of execution if they had not been commuted? Not a few murderers of the abnormal category have a mentality as low as a six- or eight-year-old child. There are very few who murder coldly, deliberately, remorselessly. What few there are present the same problem as the dangerous insane and must be controlled in the same manner. We do not advocate killing the insane because they are dangerous or difficult to handle.

Is the death of the murderer necessary as a measure of public safety? Must we admit that we kill because we

can devise no better way? that it is the easiest solution of the dilemma? Contrary to public belief, life imprisonment is not an uncertain punishment. Since 1889, when electrocution for murder was legally established in New York State, 431 men and 6 women have been committed to Sing Sing Prison for execution. Of these, 266, including two women, were electrocuted. Before the date set for electrocution, 2 died natural deaths, 3 committed suicide, 2 drowned while escaping, and 11 were pronounced insane and transferred to Dannemora State Hospital; 13 are now in the death house, making a total of 297 who are dead, insane, or awaiting execution.

The convictions of 54 men and 2 women were reversed by the Court of Appeals. Of these 31 were acquitted; 5 were reconvicted and executed; one was reconvicted and his sentence commuted to natural life; 14 were convicted of murder, second degree; 3 of manslaughter, first degree; 1 of manslaughter, second degree, and 1 is awaiting execution. One woman was acquitted and the other was convicted of murder in the second degree. The sentences of 72 men and 2 women were commuted to imprisonment for natural life, and of these only 3 have later been pardoned and only 7 discharged by special commutation; the remainder are now in prison, in the hospital for the criminal insane, or have died in prison.

In the same period (1889–1927), there were 639

commitments for murder, second degree, and 2,112 for manslaughter, first degree. This gives a total of 3,188 commitments for what is popularly known as murder. Thus the death penalty has been exacted in 63 per cent. of the total commitments for murder, first degree, and for 8.3 per cent. of all commitments for murder.

The fact that 31 persons were acquitted and 19 others convicted in a lower degree after having been convicted of a capital crime causes one to wonder how many of the 261 who were executed might not have received new trials and have been acquitted or convicted on a charge which did not exact the death penalty if they too had had money or friends to engage the most able legal counsel.

One man, who fortunately received a commutation to natural life only a few minutes before he was to be strapped in the chair, was later proved positively to have been innocent. Perhaps there were other such cases.

If juries and judges can err in one proved case, is it not possible that there may have been other errors which cannot now be corrected because the unfortunate man is dead? As a matter of fact, the juries and judges erred in 13 per cent. of the original commitments for murder, first degree; and 51 per cent.—more than half—of these persons were acquitted on retrial as not guilty. Is not the percentage of probable error entirely too high to warrant a penalty that is irrevocable?"

In view of the relatively large number of cases in which the higher court has reversed the lower courts, the number of commutations to life imprisonment is not large. If the lower courts can err in 13 per cent. of the cases, it is within the realm of possibility that a mistake is made in an additional 18 per cent. of the total cases.

IT WILL BE NOTED THAT ONLY THREE PARDONS AND SEVEN SPECIAL COMMUTATIONS HAVE BEEN GRANTED. THIS FACT ANSWERS THE FREQUENTLY HEARD CHARGE THAT LIFE IMPRISONMENT DOES NOT REALLY MEAN LIFE IMPRISONMENT AND IT IS NOT, THEREFORE, A PROPER PENALTY FOR MURDER IN THE FIRST DEGREE.

The further assumption that the murderer is a dangerous criminal from whom society must be protected is flatly disproved by the figures which show that 90 per cent. of the men and women committed for murder, first degree, had no previous felony record. Nor is there a single instance in which a prisoner pardoned or specially commuted for murder, first degree, returned to Sing Sing Prison because of a second homicide.

A study of Sing Sing's records running back to 1850 shows only slight variations in commitments for homicide. The percentage at no time runs above 8 per cent.; commitments for murder, first degree, average about 1 per cent.

This study also shows that 51 per cent. of the cases of murder, first and second degree, have been committed

by foreigners, in comparison with a rate of 26 per cent. for all other crimes committed by foreigners.

From 1850 to 1870 the foreign-born Irish led in the number of commitments for murder, and from 1870 to 1889 the native-born of Irish stock led, with foreign-born Germans second and foreign-born Italians third. Between 1890 and 1919 the foreign-born Italians took the lead, the Irish second; Negro, third; English-Scotch, fourth; German, fifth. From 1920 to the present time, the foreign-born Italians have led, with the Negro in second place; the Irish stock, third; and English-Scotch fourth.

From 1890 to 1927 those of Italian stock (91 per cent. foreign-born) lead with 28 per cent. of all commitments for murder; Irish stock (20 per cent. foreign-born), second with 19 per cent.; Negro (9 per cent. foreign-born), third with 14 per cent.; English-Scotch stock (foreign-born 19 per cent.) and German stock (foreign-born 46 per cent.), fourth with 10 per cent. each; miscellaneous stock (foreign-born 50 per cent.), 19 per cent.

In other words, the typical murderer of any given period comes from that race which is making a place for itself in a new environment. The Irish led for a long period following their immigration and the Germans were a close second following their immigration period. The Italians then took first place, and now the Negro,

who is migrating from the South, is rapidly forging toward the lead.

One often hears of the low murder rate in England and other foreign countries, and we are told that this condition is due to more stringent laws, and so on. In the light of these figures, it seems likely that England's favourable record is due to the homogeneity of her population. Murder, in its final analysis, is due to extrinsic conditions rather than to an inherent instinct for killing. Is society justified in taking a life for a crime which is a result of conditions for which it is largely responsible and in exacting a death penalty where the percentage of probable error has been proved to be so large? Would not life imprisonment answer the purpose as well and with greater justice to all?

Life imprisonment does not present a real difficulty in the control of the murderer. If it did, we would expect to see it reflected in the homicide rates in those states and countries where the death penalty is abolished; in the eight states of the United States and in Holland, Rumania, Italy, Portugal, Belgium, and half of Switzerland. We should expect them to have higher rates, whereas, in fact, usually they have lower rates.

Many actual slayers and potential murderers are confined in the Matteawan and Dannemora state hospitals for the criminal insane and there can be no capital punishment for an inmate of either institution who commits murder.

The institutional officials, from the records, seem to be as safe as in the prison where capital punishment may be enforced. Prison wardens of the states where capital punishment has been abolished are nearly all of one mind in agreeing that it is unnecessary as a protection to prison officials. I quote below opinions that are based on experience and actuality, not theory:

Warden Buker of the State Prison of Maine writes me as follows:

With reference to your letter of Nov. 28th to ex-Warden Eaton, concerning capital punishment, etc., will say that as I have been warden at this institution for a period of only six months, I am not able to express a general opinion in the matter.

As near as I can determine from past records and conversations with older employees of the institution, for over a period of fifty years there has never been an employee of this institution killed. Many years ago before that time, a warden was killed here by an inmate, and the inmate was afterwards hanged in the prison, capital punishment at that time being the law in this state.

We have very few assaults here by the inmates upon our guards in any way. Speaking for myself, I do not consider that capital punishment is necessary at this institution to protect the lives of guards and officers.

Warden Linscott of the State Prison of Rhode Island has written me as follows:

In giving my opinion as to whether or not capital punishment is necessary in order to protect the lives of prison guards and officers, I do not hesitate to say that it is not necessary.

In this state there has been no murder of prison guards in the past ten years and I am reasonably sure that such has not occurred since the institution was established.

Warden Jackson of the State Prison at Jackson, Mich., has written me as follows:

I wish to say that we have inspected our records and although we did not go back over a great period of years, we were unable to find that any guards have been killed by inmates at this institution in the past ten years.

Referring to the law that is suggested, providing that capital punishment should be inflicted when guards and officers are killed in service, I do not know as this would be any more essential than if citizens were killed by persons in commission of crime, and I am doubtful that a law of this kind would be any more effective than our present law which does not provide such a penalty.

Warden Jameson of the South Dakota Penitentiary, Sioux Falls, S. D., writes as follows:

I wish to advise that there has not been any. (Killings or assaults.)

Since the State of South Dakota abolished the capital punishment law, we have had but one serious outbreak at this institution and at that time one officer was stabbed, but not seriously. I do not think that capital punishment would act as a deterrent if a man saw an opportunity to escape from prison. He would attempt it whether or not he was faced with the fact that he could be tried and put to death if he took the life of another.

Warden Mackey of the State Penitentiary, Lansing, Kans., has written me:

I have been acquainted with this institution more or less intimately since 1890, and have made inquiry of present employees who have been employed as long as that or longer, and I am positive there never has been a prison employee killed in this prison.

Capital punishment never has been inflicted here. The prison was established in 1861, and officers on duty in the yard are not allowed to carry guns or clubs, excepting at night, when yard pa-

trolmen are permitted to carry clubs. An officer here is not allowed to strike an inmate unless in self-defence—his remedy is to report the inmate to the deputy warden's office—and I firmly believe the fact that guns are not allowed in the enclosure and that officers are not allowed to strike inmates excepting under great provocation has a great deal to do with our lack of fatalities.

The murderer is not a criminal in his nature as we ordinarily understand the term. During twenty-three years I have known many men who have been commuted from death, and, invariably, they have been quiet, dependable, and trustworthy. I have placed them in posts of responsibility, and they have measured up to the trust. Have you ever heard of a murder commited by a released murderer? When we examine the records of men convicted of murder, we become impressed by the preponderance of those who are "one-crime men." Most of those who come into Sing Sing death house have committed the crime as a first offence. The record of 180 men convicted of various degrees of homicide and paroled from Sing Sing during a period of five years disclosed only three brought back for violation of parole. Those who are commuted from the Death House in prison often exercise great influence for good. Where would society have profited if it had killed these men? It might have satisfied a momentary craving for revenge, but that is all.

Finally, is it necessary as an example to others to kill the murderer? If it is, why surround the act with so much secrecy? It is surely not a deterrent example to

perform an act furtively. If the state really believes that execution is necessary to deter others, it should execute openly and unashamed. Does not this furtiveness carry the suggestive thought that the spectacle of legalized killing by the state breeds on the part of the unthinking masses a hardened outlook toward murder which is harmful rather than effective as a deterrent?

It is also very true that the thought of the penalty is rarely in the mind of the person who commits murder. Few crimes of murder are of sufficient premeditation to permit any regard to the consequences in the mind of the perpetrator. The thought of death is far from a powerful deterrent; its very remote threat is of little weight as compared to the temptation of some desperate exigency or to the passion aroused by some overwhelming impulse.

How is it possible to suppose that any penalty that is inflicted so spasmodically can be a deterrent? Statistics show that everywhere it is a punishment it is conspicuous by the infrequency of its application. It may, with truth, be said that the only certain thing about capital punishment is the uncertainty with which it is inflicted. We cannot avoid the conclusion that the sureness of detection reflected in the number of prosecutions in proportion to crimes, the certainty of punishment reflected in the number of convictions, the celerity and accuracy of punishment reflected in the few appeals, are the determining factors in a low proportion of homi-

cidal and other crimes, rather than the severity of the punishment which is meted out. The deterrent effect of a law seems not to depend on the ugliness of its threat, but rather on the certainty and celerity with which the threatening gesture reaches home.

Sir Evelyn Ruggles-Brise, chairman of the Prison Commission of Great Britain, says relative to the certainty of punishment:

> It was not until the folly of unprofitable and cruel punishment had been illustrated, as in this country, by its failure to correct, or prevent, or until the certainty of punishment was recognized as the real deterrent for crime, that the penal system was rationalized.

Definite figures show that capital punishment cannot be justified. We find, in general, fewer homicidal crimes in states which have abolished the death penalty than in those, comparable in character, where it is retained.

Not only does capital punishment fail in its justification, but no punishment could be invented with so many inherent defects. It is an unequal punishment in the way it is applied to the rich and to the poor. The defendant of wealth and position never goes to the electric chair or to the gallows. Juries do not intentionally favour the rich, the law is theoretically impartial, but the defendant with ample means is able to have his case presented with every favourable aspect, while the poor defendant often has a lawyer assigned by the court. Sometimes such assignment is considered part of

political patronage; usually the lawyer assigned has had no experience whatever in a capital case. Even after death, distinction prevails. Where there are relatives who can afford to do so, the body may be claimed and taken away. The law states that the unclaimed body shall be buried on prison ground and in quicklime.

It is a punishment, too, that falls most severely on the family of the defendant; for the murderer himself, his suffering is soon over. The wives, the mothers, the children are the ones who suffer. I yield to no one in acknowledging the duty we owe to the family of the murderer's victim, but I have very grave doubt whether society is right in inflicting this terrible burden on the innocent family of the murderer, believing, as I do, that the punishment serves no purpose other than to get rid of the murderer.

It is a punishment of absolute finality; there is no opportunity for the correction of mistakes. For that very reason, some juries will not inflict a punishment so irrevocable. I have known several men who have been very close to the chair, and who, afterward, were found to be innocent. Still other men have been commuted to life imprisonment in almost the last moments of their lives. If they deserved commutation, they did not deserve death, and yet they were within a few moments of it. Finally, it has so many legal safeguards that it is slow in operation and so arbitrary that it cannot be made to fit all of the varying degrees of even first-degree

murder. By reason of all these defects, it remains a useless punishment too seldom applied by judge and jury to be a warning.

Capital punishment has never been and never can be anything but an uncertainty. It is a punishment for revenge, for retaliation, not for protection. We can have a punishment that is possible of application with both certainty and celerity, that presents an opportunity for individualization of treatment, and that is in accord with modern criminological methods. Can we not have the vision to see the possibilities of the future, the courage and faith to progress toward those possibilities?

Bulwer Lytton truly said: "Society has erected the gallows at the end of the lane instead of guide posts and direction boards at the beginning."

VIII

FACE TO FACE WITH DEATH

Suppose you had some strange new disease which enabled your doctor to tell you the exact day and hour you would die some six weeks hence. What would you do in the meantime?

I have put the question to a number of my friends, and have received various answers. Some say they would continue to seek and hope for a cure until the very last; some say that with death so certain they would prefer to meet it by committing suicide; some say they would make peace with their God and calmly wait for the end; some say that they would "eat, drink, and be merry"—enjoy life while it lasted; and some of them freely admit that they don't know what they would do—that one guess would be as good as another.

Since January 1, 1920, when I became warden of Sing Sing, 176 men and 4 women have been face to face with death, within Sing Sing's death house. I can tell you what they did while they waited for the fatal hour.

Under the laws of the State of New York, "A conviction shall not be had upon a plea of guilty when the crime charged is or may be punishable by death." This requires a trial by jury for a conviction of murder in

the first degree, regardless of whether or not a confession has been made. Incidentally, this provision was written into the law because it had been found that people had, in some instances, confessed to murders that they had not committed and had even been executed without repudiation or any claim of innocence.

To convict of murder in the first degree it is necessary, first, to establish the *corpus delicti*, and then prove either "deliberate and premeditated design to effect the death of the person killed," or that the defendant, "without design to effect death," participated "in the commission of or in an attempt to commit a felony [such as arson, robbery, burglary, etc.] either upon or affecting the person killed."

To establish the *corpus delicti*, or the body of the crime, it must be proved that the person killed is in fact "the person alleged to have been killed," and that the "killing was done by the defendant." These provisions are made necessary by the well-known fact that it has often happened that a body has been identified as that of a certain person who was later found to be alive, and the further fact that the killing may have been done by another person than the defendant. It must then be proved that the killing was deliberate, or was incidental to the commission of a felony.

The proof of these facts beyond a "reasonable doubt" frequently involves technicalities which, while apparently insignificant to the layman, are vital legally and

often sufficient to offset what appear to be the essential facts. Thus it happens that it is seldom that a person who is able to have eminent defence attorneys is convicted of murder in the first degree, and very rare indeed that such a person is executed. Incidentally, a large number of those who are executed were too poor to hire a lawyer, counsel being appointed for them by the state.

On account of legal technicalities, there is—as every lawyer knows—always a chance of reversal in the Court of Appeals. So that more than 90 per cent. of those committed to the death house either expect or hope for a reversal that would give them a new trial, although the chances are only a little better than one out of ten. However, in the event of a reversal, the chances are eleven out of twelve for an acquittal or conviction in a lower degree of homicide, sometimes manslaughter, second degree, which usually carries a penalty of two and one half years to five years. Thus, although sentenced to die, most of the condemned continue to fight for life and liberty. There are, however, some who refuse to make an appeal to the higher courts, although in this state such action is taken automatically, as a matter of law, and this stays the execution.

When the conviction is affirmed, a new date is set for the execution, but there is still hope of life by commutation to "natural life" by the governor, the chances being about one out of three. These commutations are

largely determined by the vote of the justices, which is sometimes four to three, thus indicating a high percentage of doubt, or they may be recommended by the prosecuting attorney for "services rendered the state" in securing the conviction of one or more accomplices. In some instances, commutations have been granted only an hour or two before the execution was to take place. Hence, most of the condemned continue to hope for life in the face of the denial of their appeal. In the event of a commutation to natural life, the chances of being eventually released from prison are only about five out of a hundred.

The "cheating of the chair" by escape or suicide is rendered practically impossible by the form and construction of the new death house, the ceaseless vigilance which is kept, and the extraordinary precautions which are taken against these possible contingencies.

The old death house was a small stone building attached to the cell block annex of the main prison. The execution chamber was immediately adjoining, and the little green door which led to it and death was in plain view of the condemned prisoners awaiting execution. The last short walk took the prisoner past the cells of some of those awaiting execution, and all could hear the hum of the deadly motor and even the noise made by the drills and saws used in the autopsy immediately after the execution.

These conditions tended to drive even the strongest

minded insane and resulted in desperate efforts being made to effect an escape. Two of these attempts were successful, although one man who killed a keeper in escaping was recaptured and executed, and the two men involved in the other escape were found drowned in the Hudson River.

The new death house, called officially the Condemned Cells, but referred to as the "slaughter house" by most Sing Sing prisoners, is located within the walls, but is completely separated from the other prison buildings. Completed in 1922, at a cost of nearly three hundred thousand dollars, it is a prison within a prison and has its own kitchen, hospital, exercise yards, visiting room, etc. There are two wings of twelve cells each for men, one separate wing of three cells for women, six cells in the hospital section, and six cells in the pre-execution chamber to which the condemned are removed on the morning of the day of execution. This section, referred to as the "dance hall" by the condemned, is connected by a corridor with "in back," or the execution chamber, and the "ice box," or morgue, adjoining.

The law stipulates solitary confinement for the condemned, and they are so confined except for a fifteen-minute exercise period, during which they may walk or play handball in one of the three small exercise enclosures, which are floored with concrete and admit of no view except the sky above. While locked in the cell, no condemned prisoner can see another, although it is

possible to converse with the prisoners in the cells on either side.

The condemned prisoner is "dressed in" upon arrival in clothing which is of such a quality that it cannot easily be used to make a rope to be used in an attempt at suicide by hanging, although one such suicide has been accomplished in this way. In one instance a prisoner saved bits of cotton used in applying medicine to his eyes and made a short rope, which, however, was discovered when his cell was changed. This is now done at frequent, but irregular, intervals.

Felt slippers are substituted for shoes, which might conceivably be used as a weapon either against a keeper or in an attempt at suicide. Special shoes, made in the prison, are supplied for the exercise period, as all other shoes have a small piece of steel under the instep which might be taken out and used as a weapon. Knives, forks, and pepper are not permitted and the meals are served through a small opening in the barred door, in vessels of soft aluminum which are taken up immediately after the meal is finished.

Pencils are not allowed, and only one kind of a pen, which is returned to the keeper. Mail is censored, but the condemned may write all the letters they wish and receive any proper mail. Magazines and newspapers are permitted when received from the publishers, but the small pieces of wire used in binding magazines are extracted. Both the magazines and the newspapers are

collected after being read, as one prisoner made a very formidable club out of loose sheets of a magazine by using chewing gum and bits of string as a binder.

Condemned prisoners are shaved with a safety razor by a prison trusty under the watchful eye of a keeper. Once or twice a week, the prisoner puts his hands out between the bars to have his fingernails pared by the attending guard, as long nails could be used to cut the arteries of the wrist. Matches are not allowed, although prisoners are permitted to smoke cigarettes and cigars, which are lighted upon request by the guards. There is no movable object in the cell, and the lights are located outside to prevent their being broken and used with suicidal intentions. In fact, the condemned prisoner is in the same position as a rat caught in a wire-caged trap.

A striking anomaly of this situation is the fact that while many of the condemned prisoners would commit suicide if possible, they are uniformly careful of their health, even to the extent of placing newspapers on the floor as a protection against colds. Perhaps the explanation is that death by their own hands would be quick, while death through sickness would be slow.

There is a touch of ironical inconsistency in the fact that often, while one group of the prison officials is taking the life of one man "in back" another group is bending every effort to save the life of another man in the

prison hospital. In several instances it has happened that an operation was performed to save the life of a condemned prisoner who, after recovering, was executed. In other instances it has been barely possible to keep the condemned man alive until the day set for the execution.

The average period between commitment to the death house after sentence and execution is now somewhat less than a year, as compared with more than two years a few years ago. During this period, most of the condemned become very devout. This does not mean that they were irreligious previously, but their religious beliefs become intensified by reading, contemplation, and devotional services. The result is that, with rare exceptions, they go to their death with a courage and fortitude that remind one of the great martyrs of history—some even seem to welcome death.

The majority of the condemned are practically illiterate when they enter the death house, but nearly all of them learn to read and write fairly well before they are executed. Some of them develop a taste for good reading, the books being furnished from the prison library, and a few have written some creditable amateur prose and poetry. Most of them show considerable ingenuity by making picture frames out of bits of coloured paper and thread, ash trays out of half of an orange peel, and statuary out of left-over pieces of bread.

One prisoner learned to draw very well and drew with chalk an excellent likeness of the governor.

Some of the condemned are stoical and refuse any religious consolation. One such said to me: "Oh, hell, what's the diff.? We all have to die, and I might as well die sitting up in a chair as lying in a bed." This was not just bravado either, as he maintained this attitude to the very end.

Another one, a young man of good intelligence, who had some college training, said, "Life is a joke, Warden. No one gets out of it alive," and then quoted from Shakespeare's *Julius Cæsar:*

> "He that cuts off twenty years of life
> Cuts off so many years of fearing death."

Several have shown no apparent concern over their fate, and a few have even seemed to consider themselves heroes dying for a cause. The chief interest of others has been whether or not their accomplices who testified against them would also get the "hot seat."

Each condemned prisoner is examined at various intervals by three lunacy commissioners appointed by and reporting directly to the governor. A very few become insane, and these are transferred by order of the governor to Dannemora State Hospital for Insane Prisoners. Some have been medically, but not legally, insane; others have been of low mentality, but nevertheless responsible for their actions under the law. Oc-

casionally, a condemned prisoner shams insanity, but these are, of course, easily detected by the alienists. Those who are commuted to natural life show, in after years, an unusually high rate of insanity as compared with other prisoners—most men begin to break down mentally after about fifteen years of imprisonment.

The conviction affirmed by the Court of Appeals, the prisoner pronounced sane by the alienists, and a commutation denied, death in the electric chair is inevitable. The days speed by "like the devil's fury," as one condemned man expressed it. All have calendars, and as they check the days off it is not uncommon to hear one say, "ten more sleeps and then the long one." This, incidentally, is said in as matter-of-fact a tone as one would use to speak of a business trip.

Visits from relatives and attorneys (unless a court order is obtained to admit others), which have heretofore been allowed twice a week, are permitted each day of the final week. Visitors are separated from the prisoner by a screen and the meetings are supervised by a keeper. Newspaper reporters and magazine writers sometimes resort to various subterfuges to make such visits, but these are never permitted and all interviews purporting to have been made in the death house are untrue.

The sentences of the condemned read: "To be put to death in the manner prescribed by law in the week beginning . . ." It is the duty of the warden to set the

day and hour within the week appointed by the Court. The usual time is Thursday night, a few minutes after 11 o'clock.

At the beginning of the appointed week, the warden sends out invitations to "twelve reputable citizens of full age" and three court officials, who are required under the law as witnesses. There are present in addition two doctors, a clergyman, seven keepers, the executioner, and the warden. In a few instances, relatives of the condemned men have requested to be allowed to accompany him to the chair, and occasionally a relative of the person killed has asked permission to attend, but these requests have, of course, been denied.

There are surprisingly a large number of people who ask to be invited to witness an execution, the number in one particular case exceeding 1,000 and including three members of the jury which had brought in the verdict, who seemed to regard their request as appropriate. Those who seek an invitation are seldom invited, as it does not seem fitting to me that such a solemn and gruesome matter should be regarded in the light of a side-show for the entertainment of morbid-minded and abnormal people. I try to secure as witnesses those who would prefer not to act but do so as a matter of duty. Apparently, some of these get a sadistic "kick" out of seeing a person put to death as I occasionally get a request from a man who has previously attended an execution to act as a witness; but I never give such permission.

I also frequently receive requests from people who want to throw the switch, as executioner. When the former executioner resigned I received more than seven hundred applications for the position, many of them offering cut-rate prices. Few of the petitioners seemed to realize that the executioner has to be an expert electrician and that it is his job to apply the electrodes to the condemned prisoner as well as to throw the switch. On rare occasions, someone asks to be put to death in the chair, or to be given the place of some condemned prisoner. Of course, such people are cranks, but I find that some of them are successful business men and efficient employees. The workings of the human mind are strange, indeed!

A few minutes before 11 P. M., the witnesses are taken through the South Gate, down to the rear of the death house, and into the death chamber. The condemned prisoner—whose hair has been previously clipped close (not shaved, as is popularly supposed) over the crown of the head—is brought into the execution chamber from the cell in the "dance hall," or pre-execution chamber, to which the prisoner was removed from one of the main wings that morning, after bidding the other condemned a last good-bye that is often done as nonchalantly as if the prisoner were going for a week's visit to New York City. It is very rare that the prisoner has to be supported on this final walk, for, whatever else may be said of murderers, they are usually courageous.

Contrary to the general notion, no drug or other stimulant is given—because it is unnecessary in the first place; and, secondly, it doesn't seem quite right that a man should be deprived of his full senses during his last minutes on earth. Prisoners usually walk directly to the chair and sit down with an unconcern that is almost inconceivable, but occasionally they make a brief statement, which may be a protestation of their innocence or some trivial remark.

It takes but a matter of a minute for the executioner to apply one electrode to the calf of the right leg and another to the crown of the head, while three prison keepers fasten the straps pinioning the arms, legs, and torso. The final strap adjusted, the executioner—who has now taken his place in the alcove—throws the switch which sends a killing current of man-made lightning hurtling through the prisoner's body.

As the switch is thrown into its socket there is a sputtering drone, and the body leaps as if to break the strong leather straps that hold it. Sometimes a thin gray wisp of smoke pushes itself out from under the helmet that holds the head electrode, followed by the faint odour of burning flesh. The hands turn red, then white, and the cords of the neck stand out like steel bands. After what seems an age, but is, in fact, only two minutes, during which time the initial voltage of 2,000 to 2,200 and amperage of 7 to 12 are lowered and reapplied at various intervals, the switch is pulled and

the body sags back and relaxes, somewhat as a very tired man would do. As a rule, the switch is thrown only once, but sometimes a second shock is given if the attending doctors consider it advisable.

Thus I have seen the tragedy enacted that has taken the lives of 114 men and one woman. There is a difference of less than five minutes in the time between the first step down the death corridor to the pulling of the switch, but it is enough to snuff out the God-given spark of life, without which what was a sentient human being is no more than a mere mass of clay.

To me, this is all very poignantly depressing because, during the months they have been waiting, I have come to know each individual personally. They have committed murder, to be sure, but aside from that fact—which is often merely an incident of fate—I find them no different than the average man of the streets. They have faults, to be sure, often grievous ones; but they have virtues, too, often sterling ones. They know the part I must play in the tragedy, but they understand that I do it as an official, and not as Lewis E. Lawes, their friend; and, strange as it may seem to many people I treasure the memory of some of the friendships made in Sing Sing's death house.

No. 69645 was the first man to go to the chair after I became warden. He was a comparatively illiterate Italian who had committed his crime while drinking heavily, and had been in the death house for more than

two years. Deeply religious, death held no terror for him, as he considered the chair a sort of vehicle by which heaven's gates would be opened for him. The look of ecstasy on his face as he kissed the crucifix before seating himself in the chair gave full proof of his sincerity.

The next man, No. 70292, known as the Brooklyn Bank Bandit, was an unusual individual, and I came to know him very well. He was a fine-looking young man of good family, and had attended college for a little more than two years, when he was expelled for gambling. Rather than appeal to his father, who was stern and severe, and being unable to make his way because he had no trade, he took to robbing banks, because, as he said, "They rob the people, anyhow, and I was sort of righting the wrong." All of his robberies were committed in broad daylight, and sometimes, so he said, in connivance with police officials with whom he split the proceeds.

At the time of his confession to the bank robbery in Brooklyn he was serving a sentence in a Western prison for the killing of a pal of his whom he had shot in a dispute when, as he thought, his pal reached for a gun. It was later found that his pal had no gun, and he felt that he had committed an act which could be expiated only by his own death. He therefore confessed to the bank robbery, in order, as he said, that he might commit "legal suicide." He was brought to New York, and re-

fusing to put up a defence, was quickly convicted, after which he made the unusual request that no appeal should be made. An appeal was made, however, and a woman friend asked the governor to commute his sentence, but these actions were taken without his consent.

On the morning of the day set for his execution, he asked the principal keeper to be allowed to wear a white shirt to the chair, instead of the customary black. As this had never been done before, the P. K. demurred, and he appealed to me. I could see no reason why a man could not be killed as easily and appropriately in a white shirt as in a black one, and I allowed the request. He also asked to be allowed to walk to the chair without handcuffs, and this was granted, as was his request for a guard who could smile instead of look gloomy.

Although he felt that he had done wrong in killing his pal in the way he did, he believed it was all right to shoot provided the other party was warned first. He steadfastly refused to divulge his right name, nor would he sign the name under which he was committed, although he wanted to use funds deposited to his credit to buy cigarettes. He had no religion, but he read several pamphlets on Spiritualism. Shortly before his execution he told me that, if it should prove possible, he would come back in spirit form at 11 o'clock the night after he was put to death. Although I thought little of the matter at the time, I told him that he need not do so on my account, and I meant just that.

The incident passed out of my mind in the many duties of the following day but was brought forcibly back to mind that night when, as I started up the stairs to retire, I heard a few faint musical notes which appeared to come from nowhere. I listened for a minute or two and heard nothing, but a second later the notes were repeated. I confess that for a moment I believed No. 70292 had come back in spirit, and I might still believe so, except that I chanced to go downstairs a few minutes later, and there I found some kittens chasing each other in play over and around a banjo that was lying strings upward on a couch.

The case of No. 69738 was stubbornly fought for over a year, but he lost, although his accomplices were allowed to plead guilty to murder in the second degree for which they received sentences of twenty years to life. He was married a few minutes before going to the chair, his sweetheart becoming a wife and a widow all within a period of not more than fifteen minutes. "Everything happens for the best," he declared as he started for the chair.

The mother of 70297 begged to accompany her boy to the chair and witness his execution. He might be a murderer in the eyes of the law, but to her he was her boy. It is quite common to find that the young gunman has been a good son to his mother, although ruthless with his fellow men.

No. 70235 and No. 70759 had killed an attendant in

an attempt to escape from the prison hospital for consumptives at Dannemora. They welcomed death as a relief to the ravages of tuberculosis, and one of them kissed the chair before sitting down in it. No. 70759 knew the executioner, for whom he had once worked as an assistant electrician, and his last words, "Do a good job, John," were directed to him just before he pulled the switch.

No. 70744 readily consented that certain glands should be removed from his body immediately after electrocution. These were successfully transplanted to the body of a mentally deficient prisoner with remarkably successful results, but it was ruled later that this was illegal, thus preventing further work along this line. He played checkers with another condemned prisoner by calling out his moves up to the very minute he was called to go to the chair.

No. 69711, No. 69712, No. 69713, and No. 69769 were involved in a robbery in which one of the number fired a shot, killing a man. Under the law they were equally guilty, although No. 69769 was waiting outside with the taxi driver and declared that he did not know that the others had planned a crime. A few minutes before the time set for the execution, No. 69712 confessed sole responsibility, and a respite was granted, but when he repudiated his confession later, the execution was carried out.

No. 69713, who was the first to go, had the mentality

of a six- or seven-year-old boy. He was pleased that by reason of the respite he had cheated the state out of an extra dinner, it being the custom to allow a condemned man a "big feed" for his last meal. Strange as it may seem, this meal is usually ordered with meticulous care and eaten with great relish.

While Nos. 69712, 69713, and 69769 were being executed, No. 69711 sang in a firm clear voice, "Oh, what a pal was Mary," "Good-bye, Boys," and other popular songs of the day. He had been an amateur prize fighter, and admitted that he had done a lot of thieving, but boasted that what he had stolen was taken from those who could afford the loss, and had been given to the poor. He asked to be allowed to walk to the chair on his hands, and his chief concern was whether or not the newpapers would carry the story of his gameness so that his old pals would learn of it. As he seated himself in the chair, he said "Good-bye, Warden, old-timer," and after the straps had been adjusted he ordered in a clear, firm voice, "Step on the gas!"

Two Mexicans, Nos. 71047 and 71064, are the only two, of the 115, who had to be assisted to the chair. No. 71605, half Mexican and negro, asked that a certain negro minister be allowed to visit him. The minister arrived, togged out in a stovepipe hat and long-tailed coat, and upon being searched was found to be carrying a heavy .45 Colt. As it turned out, he might have needed it, as the prisoner attacked both the minis-

ter and the principal keeper. He died with a curse on his lips.

No. 69195 had been in the death house three years and four months when he was executed. In the morning of the day set for his execution he attempted to commit suicide by slashing his wrists with a small piece of tin from a tobacco box which apparently had been lost by one of the keepers. He plugged the lock in his cell with bits of paper, and when it was finally opened he appeared to be close to death. The prison doctors worked over him all of that day and by their efforts succeeded in saving his life, which was legally taken in the chair that night.

The first conviction of No. 71987 was reversed, and he returned to Erie County for a new trial. While there, he escaped and came to New York City, taking a train which brought him by Sing Sing and within two hundred feet of the death house where he had been previously confined. (In this connection, it is of interest to know that one man who helped to build the old death house was later executed in it; and a man who built the electric chair of a near-by state subsequently committed a murder and paid the penalty in the identical chair. Apparently, the tools of death do not have the deterrency that they are generally assumed to have.)

After his recapture and reconviction, I asked him why, being the strong and able-bodied man he was, he had taken up burglary, which ended finally in murder.

He said that he had worked like a slave in the steel mills until he was twenty years old and, seeing that he wasn't getting anywhere, he decided to have some pleasure before he died. He declared that he had gotten more out of life than most men, and that dying quickly at forty years of age was better than dying slowly, plagued by rheumatism and in poverty, at sixty. He reasoned that as the world must have bankers, doctors, lawyers, and even wardens, it must also have its crooks. Come to think of it, there certainly would be no use for wardens if no one violated the law!

No. 72711 was a gigantic Pole who, except for the interference of keepers, would undoubtedly have butted his brains out against the walls of his cell. He feigned insanity and wrote to a friend that he had prayed to "all the devils," but apparently "they didn't understand Polish." He and several others refused to allow a clergyman to accompany them to the chair.

No. 73306 spent his time while waiting for death in writing poetry and drawing. He expressed himself as being anxious to finish a certain picture before he died, and completed it the day of his execution. No. 73683 had a few small debts that he was anxious to have paid, and asked to be permitted to sell his body to some medical school, but this could not be allowed. He remarked to me that, after all, we both had to die, and that he knew when he was going to die, while I didn't.

"Warden, I would like to die like a man, but this is

ENTRANCE TO THE DEATH HOUSE

Few prisoners who enter here, says Warden Lawes, leave hope behind.

my first try at this sort of a thing and I am not sure of myself. Can't you arrange to give me a highball just before I go?" Thus spoke No. 75453 to me. He was a very young fellow and, although no drugs or stimulants are given, I decided to break the rule in his case and arranged legally to secure a prescription of two ounces of whisky. Just a few minutes before he was to go I asked him how he was feeling. "Fine," he replied and, noticing the pallor on my face, he said: "It's you that needs that 'shot,' Warden. Drink it, and the best of luck to you!" I did need it, and I freely admit that I drank it. He went to his death like a soldier.

No. 75966 was one of several men who had wives and children who were in destitute circumstances. So that his wife and two young children might pay him a last visit, the Sing Sing Mutual Welfare League appropriated the necessary money from its small treasury for a ticket. As the woman had no money to stay at a hotel, room was made for her and the children in my house, and they ate with us at our table. On the night of his execution, while I was supervising it, my family took his wife out for a ride to spare her the sight of the witnesses and the executioner, and his little girl slept with my little daughter.

His thoughts were not so much of himself or his fate, but of the fate of his little family, and his last request was that they should be looked after. The Sing Sing prisoners, learning of this, started a subscription, to which

nearly every man in the prison gave something. Some who had no other money than their earnings of one and one-half cents a day gave every cent of them. About twenty-one hundred dollars was raised in this way, and forty dollars was given bi-weekly to the children.

No. 75982 is the only condemned prisoner who has succeeded in "cheating the chair" by suicide in recent years. He had been convicted of murder in connection with arson in the first degree, but steadily protested his innocence. In the few minutes in which the keeper was taking his dishes to the kitchen, he succeeded in hanging himself. He had planned this very carefully, and left a letter in which he told how he had outwitted the keeper, who should not be held responsible. He also directed that funds to his credit be used to buy a "good dinner for the condemned men."

Just before No. 76800 went to the chair he said, "Warden, I hope you don't succeed in your effort to abolish capital punishment. It is better to burn in the chair and have it over than to rot in prison with a life sentence." No. 77311, who was captured nine years after his crime, died cursing an accomplice who had testified against him in order to gain commutation of his sentence.

No. 77681 protested against having a lawyer at his trial, and also against an appeal being made, saying that he wanted to go. He chose for his last meal: "one Long Island duck, one can of peas, one pint of olives,

mixed and cooked into a brown stew and served with dumplings, four slices of bread, boiled rice, tomato salad, strawberry shortcake, a pint of vanilla ice cream, and some good cigars." He ate nearly all of it and then announced, "I am ready to ride that thunderbolt, boys."

No. 78076 was one of several former policemen who have gone to the chair in Sing Sing. He said that prior to joining the police force, he had never taken a drink, but that since that time he had rarely been sober. In an adjoining cell was a man who had killed two policemen, and they disliked each other heartily, which is quite uncommon, as most condemned men are quite friendly with and considerate of the "other fellow."

No. 77575 was one of two one-legged men who have been executed here. He willed his wooden leg to a newspaper man whose write-ups of him he didn't like, and said he hoped that the reporter would need it sometime. Among the witnesses to this execution was a man who, I learned later, was blind. Strange to say, he was able to give a fair description of what happened, saying that he was able to "sense" what was going on.

One morning a man walked into the prosecutor's office in Brooklyn and said he understood that he was wanted for murder. The office attendants were unable to find that he was wanted but told him to come back the next day, which he did. The papers had been located, meanwhile, and he was arrested, convicted, and executed as No. 78856. His brother had previously been

convicted in connection with the same offence, but was freed following a reversal by the Court of Appeals.

No. 79141 asked as a special favour that the prison photographer be allowed to make a good picture of him for his people, as the ones they had did not do him "justice." He was known as the "radio burglar," and seemed to have a mania for anything pertaining to radio.

The case of 79893 was one of several somewhat similar convictions. He was present in a speakeasy when a pal of his shot a policeman after robbing the till. He was himself very drunk and had more money of his own in his pockets than was taken, but as he had drawn his gun during the fight that took place he became a party to the crime and so was convicted of murder, first degree.

His appeal was based upon the fact that the trial judge had refused to instruct the jury that it could take into consideration his mental condition and responsibility in the light of his intoxication, which might have resulted in a verdict of murder in the second degree. The Court of Appeals upheld the judge in his ruling while at the same time admitting that the law appeared to deal more harshly with an accessory to a felony where a murder had been committed than with the murderer himself—this is the law. In a final letter the man said, after reviewing the facts in his case, "I go now where I will find true justice tempered with mercy in the Court of No Appeal."

From the foregoing *actual,* not fictional, illustrations, it will be seen that it is practically impossible to generalize about murderers and their actions when face to face with death. In fact, about the only generalizations that can be reached are that most of them were poor (not one was rich) and comparatively friendless, and most of them faced death bravely.

Execution by electrocution originated in New York, Governor David B. Hill signing on June 4, 1888, the bill which abolished the practice of hanging and provided that death "be inflicted by causing to pass through the body of the convict a current of electricity of sufficient intensity to cause death."

Back of the enactment is an interesting story of a business fight between two great electrical concerns which illustrates how far flung may be the influence of seemingly unrelated and indirect factors of which one may be entirely unaware. The facts as here presented were unknown to the public until I collected them from various sources and allowed them to be used in connection with an article on "The Chair," which appeared in *Liberty.*

The first electric lighting system, perfected by Thomas Edison, used a low-tension direct current which although satisfactory from a lighting standpoint, required such large wires to carry the current that it made the cost of installation and service very high. George Westinghouse, a few years later, developed a high-

tension alternating current transformer system which materially reduced the cost of installation and service to a point that bid fair to eliminate the Edison system.

About this time several people were killed by accidentally coming in contact with wires carrying the high-tension alternating current of the Westinghouse system, and the Edison officials seized upon this fact as an argument against the use of this system in preference to their own, which did not, with the dynamos in use at that time, develop enough potentiality to kill. In some quarters this argument was taken so seriously that an attempt was made to pass a law prohibiting the use of the Westinghouse system.

"Money talks," however, and the cheaper Westinghouse system gained ground steadily, the Westinghouse officials minimizing and even denying that their system was dangerous. The situation was serious for the Edison people, and they made the most of their one argument —danger—by engaging a prominent young electrical engineer of the day, Harold P. Brown, to prove by public demonstration that the alternating current was dangerous and would kill. Brown made a tour through New York, winding up at Albany while the Legislature was in session, and, using the alternating current, he killed horses, stray dogs, and cats.

Among those who saw the demonstration at Albany were some members of the Legislature who had, in the

previous year, witnessed a horrible bungling in the execution of a woman by hanging. It occurred to them that here was a quick, sure way of taking life without the possibility of a gruesome bungle, and after consulting with Governor Hill (who had refused to extend clemency to the woman) they introduced a bill providing for execution by electricity.

There was, of course, strenuous opposition to the bill from the Westinghouse interests, as it was feared that the adoption of electrocution as a means of inflicting the death penalty would create an aversion to the use of their system and hamper their business. The majority of the Legislature, however, had been convinced that electrocution was "a painless and instantaneous means of stopping the lives of condemned criminals" when two men, who had apparently been killed by coming in contact with wires carrying alternating current, were revived after several hours' work by doctors.

The Westinghouse officials were jubilant at the turn of affairs, and for a while it appeared as if the proposed new law would fail. Brown explained, as subsequent events have proved, that while a shock which merely stunned the heart might not kill, one that was passed through the nervous system would invariably prove fatal, but this was not fully convincing. Finally, a compromise clause was inserted in the bill which provided for an autopsy immediately following the execution to

"prevent any possible chance of the subject ever returning to life," and the bill with this provision was quickly passed.

The prison authorities whose duty it was to provide means for carrying out the new law were in a dilemma as to how to proceed, when the energetic Brown offered his services. They were accepted. Brown's first need, of course, was a Westinghouse dynamo, but naturally the Westinghouse people refused to sell the state a dynamo and other necessary apparatus. The resourceful Brown, however, made arrangements whereby a dynamo was ordered by a man in South America, and when it was received by him there it was reshipped to Auburn Prison, where the first chair was made and installed under the direction of Brown by E. F. Davis, who became the state's first executioner.

Meanwhile, a William Kemmler of Buffalo, had been convicted of murder and committed to Auburn Prison for execution under the new law. An appeal on the grounds that the law was unconstitutional in that it provided a "cruel and unusual punishment" was denied, and the condemned man was electrocuted on August 6, 1890. Kemmler's last words, directed to one of the guards who was fumbling with the straps, were, "Don't hurry. We got plenty of time."

Subsequently, chairs made in Auburn were installed in Clinton Prison and Sing Sing. The first execution at Sing Sing was that of Harris A. Smiler, on July 7, 1891.

Following a law enacted in 1914, all executions for the state have been carried out in Sing Sing. The present chair was built and equipped in this prison. A separate dynamo, run by power produced in the prison plant, furnishes the electricity, and there is no dimming of lights, as is popularly supposed, when the death switch is thrown into place.

The technique now used in execution by electricity has been gradually evolved by leading electrical and medical experts working in collaboration with the prison authorities. It has been found by exhaustive research that a current of one ampere passing through the brain or other vital organ of the body will in most cases produce death if allowed to act for only a short period of time, and it is therefore evident that it is the amperage (or quantity of electrical current flowing in the circuit) together with the energy dissipated in the body which actually destroys life. On the other hand, the element of voltage enters, insomuch as the resisting power of the human body is very high and it requires a voltage comparatively large or small, depending entirely upon the resistance and contacts, to force this amount of current through a circuit in which the body, with its contacts, constitutes the resistance.

The condemned prisoner undergoing electrocution at Sing Sing Prison is given one shock of single phase 60 cycle alternating current at an average starting potential of approximately 2,000 volts. This voltage is imme-

diately reduced at the end of three seconds to the neighbourhood of 500 volts where it is held for an additional period of 57 seconds and is again built up instantly to the original starting voltage of 2,000. The current is then gradually reduced again to 500 volts, where it is held for another 57 seconds and is again rapidly built up to the original voltage of 2,000 just before the switch is finally opened by the executioner after a total application period of two minutes.

This initial electromotive force, with the moistened contacts used, sends a starting current of from 8 to 10 amperes through the human body, which causes instantaneous death and unconsciousness by its paralysis and destruction to the brain. The current is then cut down under the lower voltages to from 3 to 4 amperes in order to avoid burning the body and at the same time to hold paralysis of the heart, respiratory organs, and brain at a standstill for the remaining period of execution. This insures complete destruction of all life.

If temperatures are taken during and immediately after an application of electricity it will be found that the electrodes making contact may reach a temperature high enough to melt copper (1,940 degrees Fahrenheit) and that the average body temperature will be in the neighbourhood of 140 degrees Fahrenheit, which, if this temperature rise alone were considered, would show that it is impossible to restore life or reinstigate blood circulation under such abnormally high bodily temperatures.

It will also be found that under such an application of electricity the temperature in the brain itself approaches the boiling point of water, namely 212 degrees Fahrenheit.

The force of the death-dealing blow the condemned prisoner receives is more easily understood when it is realized that this amount of electricity, transferred into mechanical power, would be equivalent to 884,400 foot-pounds per minute, or enough electrical energy to light 800 lights in the average home.

Under correct application approximately one third of the total electrical energy shot into the human body is dissipated in the brain, and scientific analysis proves that unconsciousness takes place in less than a 240th part of a second, which is far more rapid than the speed with which the nervous system of the human body can record the sensation of pain. This insures a death that is both instantaneous and painless.

Both oscillographs and electrocardiograms have been taken during electrocutions by electrical experts and representatives of the College of Physicians and Surgeons of Columbia University. The oscillographs showed that a deadly current of one ampere acted upon the brain in as short a period as a 720th part of a second. As this is more than seventy times faster than the human nervous system can register a sensation, the condemned prisoner cannot possibly experience pain. The electrocardiograms show that the chances of resuscitation

would be practically nil, quite regardless of the destruction of the brain and nervous system.

Although it would be absolutely impossible to revive any person after electrocution in Sing Sing's death chair, an autopsy is immediately performed as provided by law. Thus justice grinds out its grist; the hand of the law drops a living man or woman into the death-house hopper, where the chair and the surgeons' knives and saws convert it into the finished product—a grisly corpse

IX

SING SING'S EARLY HISTORY

Newgate Prison (Greenwich, N. Y. City), 1796–1797, and Auburn Prison, 1816–1821, were the only New York State prisons in 1824. The same year a legislative commission was appointed to visit both Auburn and Newgate prisons, its sole purpose to report on their relative merits and to plan for some institution that would solve the notorious problems of the old prison in Greenwich.

The commissioners advised the abandonment of the state prison Newgate, because it was of unfit construction and incapable of maintaining profitable industries. Casting their business gaze toward other states, they saw both the state prisons of New Hampshire and Massachusetts carrying on a profitable industry in stone-cutting. Where could a quarry or quarries be secured near New York? Either on Marble Hill, near New York (just beyond the extreme north end of the island of Manhattan), or in the village of Sing Sing.

A commission was appointed to locate and build the prison that was to become the best known—at times the most notorious—in the world. An option was secured at Mount Pleasant, in the town of Sing Sing (now Ossining), of a tract of 130 acres, called the Silver Mine

Farm. On this land, rising steeply from the Hudson to a height of some one hundred and seventy feet, and thirty-three miles from New York, a silver mine had been extensively worked before and up to the time of the War of the Revolution.

In the spring of 1825, prisoners were taken from Auburn Prison to the canal, seven miles away, whence they were brought in two canal boats to the Hudson River, and thence in freight steamers to Sing Sing, where they arrived on May 14th. Each man made the journey shackled. On the same day they erected a temporary barracks and soon afterward a cookhouse and a blacksmith's and carpenter's shop. They proceeded at once to the levelling of the broken and precipitous side hill for a prison site. From the outset this task proved to be slower and more arduous than had been anticipated. The prisoners were guarded by officers with guns, and from the first a rigid discipline of obedience and silence was enforced. Guards had full authority to inflict "stripes" without even reporting such floggings to their superior officers.

The sanction for silence, as an integral part of the Auburn System, was based on the necessity of preventing disorder, riots, and escapes, as well as on the importance of preserving the individual prisoner from the contaminating influence of his associates. The warden of the period was probably far less worried about the possibilities of still further demoralizing his inmate

population by mutual opportunities for conversation than he was about the chances of the development of plots through the mutual communication. The same principle of perpetual silence, therefore, which appealed to the philanthropist for its preventive and reformative value, was pleasing to the prison official as a disciplinary and precautionary measure.

By the coming of cold weather, 60 cells had been built of the 800 proposed. The prison was to be a single building, 476 feet long, 44 feet wide, and four tiers high. The plan of the cell block was to be almost identical with that of Auburn. The cells were placed back to back. Their dimensions were: depth 7 feet, width 3 feet 3 inches, height 6 feet 7 inches. These cells are used to-day, over a century after they were built, and are intolerably small, often very damp, and altogether unfit for human habitation. They will be abandoned with the completion of the new receiving and classification prison now under construction.

Two considerations conditioned the location of the prison at the water's edge. First, the importance of having the workshops at the tidewater in order to facilitate the delivery of the stone with the minimum of cartage. Secondly, health, by which was meant probably the importance of securing easy drainage facilities. This latter reason is the more surprising, because in later days one of the chief criticisms of Sing Sing Prison was its dampness and consequent unhealthfulness.

When William Crawford, the English visitor, went through the prison in 1832 he found the prison cells deficient in ventilation; they had a close and offensive smell, probably owing to the low situation of the building, which prevents as good a circulation of air as might be obtained on a higher spot. The floor is damp in wet weather. In 1845, for instance, only twenty years after the beginning of the construction of the prison, Dorothea Dix wrote that the location of the prison rendered the cells damp, and even the fires in the stoves in the corridors failed to correct this condition.

Within six months of commencing work on the prison, in 1825, the prisoners were already being housed two in a cell. The campaign, nearly a century later, for the abolition of Sing Sing was based largely upon the pernicious "doubling up" of prisoners in these viciously small cells, in a great damp, bastile-like structure. Here, at the very outset of this prison's history, the practice was begun, with the inevitable excuse of "lack of room." Obviously, it broke down temporarily the Auburn system of separation and silence, the cardinal principles of the new method, just as in our own time the doubling up of prisoners, two in a cell, has broken down morality and health, and lessened the possibility of reformation.

A year later, $63,503 of the original appropriation of $70,000 had been expended, but only 170 feet of cell house had been erected. Work was delayed by the great amount of excavating and levelling. The maximum of

200 prisoners that had been planned for the second year could not be employed for lack of quarters. The simple expedient of housing prisoners under such circumstances in temporary shacks was evidently not deemed longer feasible, although it had been done the year before. Prisoners transferred from the state prison at Greenwich had proved poor workers and also refractory. Lynds always maintained that the prisoner must go through a process that we would call "breaking," before he became a useful and docile inmate. These men from the old state prison did not fall into the Lynds System of discipline. On December 1st, there were 169 prisoners at the prison, of whom 158 were quarrying, cutting stone, or excavating.

An incident of 1826 throws a sidelight on the curious sense of what was felt to be a privilege granted by the men then commissioners. The Legislature raised the question as to why the iron-grated doors in the Mount Pleasant Prison should be hung flush with the corridor, instead of nearly two feet back at the inner end of the recess of the cell door, as at Auburn. The commissioners solemnly assured the Legislature that they had done this partly in order that the prisoner, when pacing up and down within his cell, might extend his walk from two and one-half to three steps.

Another year, 1827, saw 428 cells completed, and 372 cells yet to be built. The commissioners were delighted with the site. "A more healthy situation could not have

been selected." The Reverend Garrish Barrett was appointed chaplain, his salary of $200 being paid partly by the commissioners and partly by the Boston Prison Discipline Society. An interesting light upon the methods of this early prison chaplain is thrown by the report of the Prison Discipline Society of 1829, which shows the manner in which Garrish Barrett taught certain of the illiterate convicts at Sing Sing. The statement was made in schedule form:

Feb. 22, 1829, Began the first verse of *Genesis* and learned 4 letters.
Feb. 23, Learned 5 letters more.
Feb. 24, Could say all the letters in the first line.
Feb. 25, Knew all the letters in the first verse.
Feb. 26, Knew all the letters in 2 verses.
Feb. 27, Spelled all the words of one syllable in the first verse.
Feb. 28, Partially learned the words "created and heaven."
Mar. 1, Besides learned "created" and "heaven" more perfectly spelled the word "beginning" correctly.
Mar. 2, Read the first verse in the Bible for the first time.
Mar. 3, Read the first line of the second verse.
Mar. 4, Read all the second verse.
Mar. 5, Read correctly the third verse.
Mar. 6, The fourth verse.
Mar. 8, Five verses.
Mar. 10, Six verses.
Mar. 18, Read with ease the sixteenth verse.
Mar. 19, To the twentieth verse.
Mar. 22, To the twenty-third verse.
Mar. 29, Read correctly the first chapter of *Genesis*.

Tabulating his activity as chaplain, he stated that during a period of eighteen weeks, 770 chapters con-

taining 19,328 verses had been recited by the convicts, and forty-two entire books had been committed to memory; one man in seventeen weeks committed forty-nine chapters, or 1,605 verses, another, 1,296 verses.

There were 235 prisoners at work on December 31, 1827. In April, 1828, the legislature authorized the removal of all the prisoners from the Newgate state prison, and ordered that, since there were no quarters for female prisoners at Mount Pleasant, the commissioners should contract for their custody by the City of New York.

By May, 1828, all the male prisoners had been moved to the new prison, which was already becoming popularly known as Sing Sing. The City of New York bought in this year the abandoned prison in Greenwich for $100,000, apparently a good bargain for the state. By October, the main building at Mount Pleasant was finished.

The prison was 476 feet long, 44 feet wide, and 32 feet high. In this same year, the warden started to build an "appurtenant building" to the south, at right angles and toward the river, to be 81 feet long, 40 feet wide, and two stories high, and to be used for kitchen and hospital. Later, a second similar building was added, containing a chapel seating 900. The prison was taking on the proportions of a hollow square, with a proposed prison yard of 480 feet long by 300 feet wide. The yard was made entirely of filled-in land—which became a

most serious cause of the later dampness at Sing Sing.

At the end of 1828 there were at Mount Pleasant Prison 513 prisoners. In 1828 the commissioners began to make contracts to cut stone for public corporations. Contracts were entered into with the City of New York for stone cutting and blacksmith work for the local penitentiary; for stone for the courthouse in Troy; cut stone for the state house in New Haven, cut stone for the city hall in Albany; coping stone for Fort Adams in Rhode Island and for an iron steam boiler to be sent to "Mexico in South America."

Workshops were planned for the north side of the prison yard to take the place of an otherwise necessary wall, and on the west side there was constructed during this year and 1830 a wharf approximately 600 feet long by 30 feet in width. The prison was thus practically completed, and the Legislature had appointed the commissioners a board of inspectors for the year of 1830, when suddenly serious charges of cruelty and maladministration were brought against Captain Lynds by Samuel M. Hopkins, one of the commissioners.

The situation that arose was sensational. Captain Lynds was at the height of his prison career. He had achieved what was deemed the impossible in building the greatest and newest prison in the United States without an enclosing wall and wholly by the labour of desperate prisoners. He was popularly held to be the founder of the Auburn System. He was undoubtedly

its most rigid and uncompromising adherent. His prisons at Auburn and Sing Sing had been ruled with an iron hand. He had succeeded conspicuously as a prison administrator. And now he was publicly charged, before the Legislature, by Mr. Hopkins with, among other things:

Ordering prisoners not to complain, under pain of punishment, of want of food.
Keeping prisoners on short rations.
Tolerating maladministration of office by an assistant keeper, who received presents from the food contractor.
Charging for extra rations without warrant.
Bad faith and evasiveness.
Accepting lower grade beef than was contracted for.
Cruelty and bad temper.
Doubtful pecuniary transactions.
Unwarranted discharge of a faithful employee.
Unwarranted breach of good relations with the chaplain.

Without doubt, Mr. Hopkins believed his charges to be tenable. He claimed to have been deceived in Lynds, and he recognized that in now making frank confession of his error he was exposing himself to severe and mortifying remarks from the enemies of the rigid system he had championed. Hopkins's declaration of his position in 1830 deserves extended quotation, for it foreshadows the inevitable ultimate breakdown of the Auburn System in its original rigour:

That system of prison government which originated chiefly in this state, and which is known as the Auburn System, begins to prevail extensively in the United States, and attracts great atten-

tion in all civilized countries. This system consists chiefly in a discipline which is very strict and summary. To produce such strictness there must be absolute command.

To insure to the principal keeper the means of safety and strictly governing such dangerous subjects, he must, it is thought, have the appointment of his assistants. We have, therefore, in the midst of a free country, a despot executing his commands through officers entirely dependent upon his will. It is, then, a despotism, in comparison with which the government of a camp, or a ship-of-war, is mild and free.

The life and limbs of the convicts; their treatment in sickness; their starvation or other sufferings; their moral treatment and hopes of amendment, all depend upon the will of the absolute dictator. We who are commissioners have strenuously advocated this system, as unavoidably necessary. It has been supported against a vast array of opinion, and against the authority of great names, both in this and other countries; and the legislature has in milder terms adopted it.

But we never advocated such a despotism except in connection with a most effectual plan of inspection and control; with moral discipline also; with religious teaching by a devoted and attentive chaplain; and the whole plan implies, and so our reports state, that the principal should be a man of humanity, morality, and integrity. All this is attainable. Without it I have never supposed that the system can be, or ought to be, endured in a free country, or in any country.

The eyes of mankind are on us. Other nations are waiting with anxiety to see the issues of this experiment.

Here is the first outspoken and illuminating rebellion against the already famous Auburn System. It is the revelation of the "inside" by one on the inside, not a diatribe against a system by one who is on the outside, a disgruntled prison official, a newspaper correspondent, or a legislator stirring up a sensation. Yet a "select"

committee of the Senate, after conducting an extended investigation in 1830, exonerated Captain Lynds and his subordinate. They found the several charges either ungrounded, or due to misconstruction on the part of Hopkins. They condoned the practice of legalized cruelty and not infrequent torture that was a keystone of the Auburn System.

We need not regard the action of the committee as a deliberate whitewash. The members may well have been in earnest. But there stand out from this investigation several points of permanent truth. The government of the prison was despotic, and had to be so under the Auburn System. There was only one way to success under that system, and that was by the complete acquiescence of the inmate to the rigours of the system. Lynds achieved his results through the iron hand. He did not believe it to be even the free citizen's duty to go beyond law and order. He was not a man of vision, but of dogged action. Successful despots need imagination, and so Lynds kept getting into trouble, in pursuit of his methods.

Commissioner Hopkins had had many years of experience to draw on in arriving at his conclusions. He had himself conducted two investigations at Auburn Prison. He had himself condoned the Auburn System in official reports—and he had learned much since, especially the way in which novices in investigating prison conditions and prison administration can be misled.

However, the salient fact of Hopkins's statement was that the warden, if a despot, could control to an amazing extent the testimony of his subordinates in any public investigation. Subordinate officers, on the witness stand, became surprisingly like the three Chinese monkeys, who hear not, see not, and speak not. Their jobs and their salaries depended upon holding their place in the warden's estimation, and in the early days, before the advent of the Civil Service, the subordinate officer, if hired by the warden, was naturally his creature, unless he was of most independent temperament. Moreover, the position of guard and keeper was one paying little, and narratives of prison life in the Nineteenth Century are filled with assertions of the illiteracy and ignorance and stupidity, not to say cruelty, of the under officers of many prisons.

If we seek further reasons for the failure of most investigations, we find that the testimony of the prisoner himself is discredited, so that the bulk of testimony before a committee is one-sided. In many instances, moreover, the single-mindedness of the investigating committee can be questioned. There is the natural desire to suppress, if possible, the development of a public scandal in a state institution. Politics plays an important part in the application of the "soft pedal." When glaring offenses of administration are evident, political pressure is only too apt to exert an influence that will

make things easy for the offender, on the ground that "he thought he was doing his duty."

With the exoneration of Captain Lynds, with the passing of Hopkins and his fellow building commissioners, with the completion of the cell house and the wharf, with the creation of a prison yard, with the appointment of three new inspectors, and with the reappointment of Captain Lynds as warden, the first period of Mount Pleasant Prison's history is at an end.

Yet, before leaving this initial stage of the history of Mount Pleasant, it will be of interest to consider some noteworthy and radical suggestions made by Captain Basil Hall, of the Royal Navy, who travelled in the United States during 1827 and 1828. He visited Mount Pleasant Prison, and was a graphic observer. He pictured the fearful monotony of the daily life of the prisoner. "The convicts who are sentenced to confinement in the state prisons of America are chiefly such as in England would be executed or banished."

From Captain Hall has come the earliest recorded suggestion of the plan of reduction of sentence served in prison—an actual proposal to establish a commutation system of the kind that later became customary. Captain Hall's proposal, therefore, had all the virtues of a radical and highly constructive plan—and like other similarly advanced plans, found no hearing from the "practical" prison administrators of the day.

Why, if disobedience be punished, should not obedience be rewarded? And how easy it would be to give the convicts a direct and immediate interest in conforming to the rules of the place. Suppose a prisoner were sentenced to several years confinement; then, if he behave well for a week together, let one day be struck from his term of confinement; if he continue to deport himself correctly for the month, let his term of detention be shortened a fortnight; and if he shall go steadily on for six months, then let half a year be struck off his whole period; and so on, accordingly, to any ratio that may be found suitable.

It must surely be the wish of society in general to let a prisoner out as soon as possible, consistently with a certain salutary effect on himself and on others. It has always seemed to me that by the process of giving the convict a constant, personal interest in behaving himself well during his confinement, not only might the seeds of virtue be sown, but the ground put in good order for their future growth. . . . If the plan I suggest were adopted, the evils of uncertainty (of sentence) which are great would fall entirely to the prisoner's share, not to that of the public, from being made contingent upon their conduct. . . . Of course, the pardoning power would need to be tied up more strictly than it is, and imperatively limited by law.

At the time of Captain Hall's travels and the publication of his narrative, his proposal found no echo in practice. The vicious pardoning of prisoners continued, forming the only inducement to inmates to conduct themselves properly within the walls. Instead of the erection of an honest and sympathetic system of rewards for good conduct, in a commutation system, the states continued to maintain the arbitrary, unfair, and often reprehensible method of the exercise of grace through the chief magistrate of the state, the governor.

The Mount Pleasant Prison at Sing Sing became also, as early as 1831, six years after its founding, a target of bitter criticism for mechanics in New York City who claimed that the prison was making contracts to sell marble at prices far below those possible in the open market. The prison was furnishing to a museum in New York marble for $500 that would cost from $7,000 to $8,000 in the open market. This led to one of the first of the almost innumerable petitions to the Legislature from mechanics during the next decade for relief from this growing and menacing evil.

Labour was becoming at Auburn and Mount Pleasant prisons a source of profit to the state, through the letting of the prisoners' labour to contractors. Auburn Prison was, by 1825, a great smooth-running industrial machine, when suddenly two highly disturbing lines of attack upon the system developed. Hostile criticism was levelled at the alleged barbarous punishments necessary under the Auburn System. The second line of attack was from the outraged mechanics of the state, who saw their industrial life threatened with ruin through the prison competition. These two controversial questions became the chief problems of the prison administration in the state of New York between 1825 and 1845.

In short, prisoners were practically for the first time being turned not only into assets for the state, but into a profitable business for certain firms or individuals on

the outside who contracted for the labour of the prisoners and made good money. It looked like a good bargain all around. The prison philanthropists, like the Boston Prison Discipline Society, were maintaining that economy was concomitant with moral improvement in a prison administration, thereby tacitly putting the stamp of approval on the making of money in the prison. The public, wearied with alleged visionary schemes of reformation, was glad to have a burden lifted from the taxpayers of the times. The rigid discipline of Auburn and Sing Sing Prisons appealed to the public, which had heard much about the bad management and the high cost of the prisons of the past, and also of the debauchery and demoralization attendant apparently upon the existence of prisons. The cheap cost of construction of the new type of prison, as at Sing Sing and at Wethersfield, by the labour of prisoners, was a further appealing argument. It must have appeared to the thoughtful minds of the period that at last the secret of efficient prison management had been revealed.

We can, therefore, readily understand why the new prison system sprang into popularity, why severe punishments were in the main tolerated or excuses found for their continuance, and why the emphasis of the Auburn System shifted increasingly from producing reformation to producing profits for the state. The prison system was now appealing to the state where the state was most easily influenced—in its pocketbook. Penal servitude

was becoming a profitable business to the state, and the general feeling that prisoners should be severely disciplined was being gratified at the same time—and justified.

We are analyzing these formative years in some detail because it was in just these years that there was being firmly moulded the system of prison discipline that became the American standard for generations. American life and standards to-day are well understood as one knows the history of our people. That special phase of American institutional life represented by our prisons, with their remarkable and often intolerably stupid and unjust practices, cannot be understood except as we survey the past. Powerful economic and moral forces have in the past conditioned and traditionalized our penal institutions. Administrative habits of yesterday and even of to-day, strong and dominant with the force of long usage, are but the acquired characteristics of the periods of the past. The era that we are now surveying was primarily one in which such methods and principles became fixed. Historically, therefore, the period from approximately 1820 to 1840 is of exceptional significance in the development of American prison customs.

A factor that made the industrial situation still more intense was the failure of the Sing Sing quarries to produce the anticipated high grade of marble. Moreover, to a legislative committee of 1832, the ignominy and humil-

iation attached to teams of prisoners pulling blocks of stones like weary dumb brutes and harnessed to carts seemed so great as to demand the installation of other occupations than quarrying. The labour of prisoners should be hired out to contractors. The inspectors at Mount Pleasant Prison had ordered the warden not to make such contracts, because they believed that any profit accruing therefrom should go to the state, and not into the pockets of contractors.

The prison-labour storm was gathering rapidly over the prisons. To the Legislature of 1834 came petitions from groups of mechanics in sixteen counties, stating that the labour of the prisoners was being sold at reduced prices to the contractors, and was thus, by the ability of the contractors to undersell in the open market the products of prison labour, affecting injuriously the mechanical industry of the state.

A legislative committee took the matter under consideration. It reported that it was advantageous to the contractor to be able to count upon a dependable number of men. The labour problem ought easily to be self-regulated. The mechanics ought themselves to bid for the contracts; the state ought to demand high prices for the labour of the prisoners. It was hard, anyway, to compete through prison labour with the mechanical industry of the country. The state maintained no monopoly. Prisoners were offered to all bidders and sold to the highest bidder. If one bidder was cleverer than the

other, that was no cause for complaint. Markets were not overstocked because of the output of prison-made products. An addition of 1,000 prisoners a year would produce no permanent effects upon the prices or wages in that market.

Moreover, did not the mechanics claim that prisoners should not be permitted to learn industrial trades in prison on the ground that after leaving prison such men, in their newly learned trades, might be employed in shops with honest journeymen and apprentices whose morals they might corrupt? Did not the mechanics realize that discharged prisoners might go somewhere, must do something? Think of the fine reformative effects of the industrial training within the prison! There was no monopoly of prison labour, if the different contracts were let to the several persons who were the highest bidders. There was a sufficient demand for all products represented by prison labour, and the limited output of the prisons could not affect the markets or wages. The state must lessen its public burdens by a wise use of the prisoner, who was the slave of the state. The Auburn System was now the model of the world, and no change ought to be hazarded.

The arguments of the legislative committee contained certain fallacies which the mechanics were not slow in replying to. The contract labour question would not down by the simple application of a legislative report. The assembly appointed a "select committee" which

reported in 1834 that the mechanics had charged fraud and favouritism in the letting of the contracts. Prisoners said the mechanics, should not be so employed that the products of their labour would bear heavily on any *special* trade. They were confined in prison for the benefit of all the citizens, and so they should be supported by the means of all. In this argument the mechanics were working toward the oft-proved fact, in later days, that although the sum total of prison labour is but an infinitesimal part of the total labour forces of the country, nevertheless, when prison labour is applied mainly to specific and relatively few trades, it does produce a material effect upon those trades, lowering the prices and affecting the number of free workers that can be employed in such trades. In short, although 1,000 prisoners working in a state where 500,000 other persons may be working is a negligible number, 1,000 prisoners working at a trade at which only 2,000 or 5,000, or 10,000 persons are working on the outside may condition to a preponderating degree the market and the prices of the trade in question.

Moreover, the mechanics in 1834 assailed bitterly the theory of the reformation of prisoners. They maintained that every indulgence to a prisoner beyond a mere wholesome supply of his natural wants was detracting by just so much from the efficiency of his punishment. The supposed feeling of humanity had degenerated into a morbid sensibility that would consult the interest and

wellbeing of the criminal at the expense of the community, against whose rights he had offended.

The mechanics continued their argument by asking that investigators consider what effect the example of punishment under such conditions would have on society. The prisoner got the idea that there was public sympathy for him outside the walls; he believed himself a martyr, the object of public attention and pity. When he returned to society, he believed himself entitled to all its privileges, fit to associate with respectable citizens, and with no feeling of public infamy or degradation. Then, if society rejected his claim, he reverted to crime. This would be almost inevitable, because no man who had been subjected to infamous punishment as a prisoner could be expected to become a useful citizen. Therefore, the system was wrong in so far as it was based on the theory of reformation.

A second serious objection, said the mechanics, was that honest citizens would not associate with the discharged prisoner. Men are known by the company they keep. Two hundred rogues a year would be going into the trades. Rogues draw honest men down to their standards. The great majority of discharged prisoners were under thirty years of age. They would accumulate in the mechanical trades. They would not leave the state for greater opportunities because other states would be adopting the system of New York. The influx of discharged prisoners in the mechanical trades would cause

the journeymen in these trades to be regarded with suspicion. People would fear to have discharged prisoners in their vicinity. Masters would, unaware, be taking discharged prisoners into their own homes, among their own wives and daughters. Other journeymen would be quitting the employer who hired a discharged prisoner. Robbers, ravishers, false swearers, and thieves ought not to be benefited to the injury of those honest persons who had a claim on the laws for protection. Rogues were no legitimate part of the community.

Moreover, the prisons, in meeting their expenses by contract labour, taxed the labour and industry of the mechanics and exempted other classes from contribution, argued the mechanics. It would be more just to punish the prisoners by idleness, or by unproductive labour, and maintain them by general taxation. The state sold their labour cheaply; the contractors thereby manufactured cheaply and undersold the honest mechanic. The contractor would practically monopolize any particular branch by throwing an oversupply into the market, which act would crowd out all except those with much capital.

Considered to-day, the arguments of the mechanics, from their own personal standpoint, will be conceded to be cogent. The "reformed" prisoner goes back into society. He does mingle with "honest" workmen. At that time, before the organized labour union methods of identification, it *was* hard to tell whether the journeyman

might be an ex-prisoner or not. The released prisoner did compete with free labour. In the prison, as we have already said, a relatively slight output in a few industries would disturb the price equilibrium of that industry. The choice of a few industries for prison labour purposes did unduly compete with outside production, and other industries went scot-free of such competition. The mechanics certainly had a grievance.

But, on the other hand, the state did not, of course, want to give up a thing that was working so well from the administrative standpoint. So we feel in the reply of the legislative committee a distinctive side-stepping and an ignoring of uncomfortable truths.

We can readily picture to ourselves the keen interest with which the makers of those 200,000 signatures upon the petitions of mechanics against prisoner labour awaited the report of the legislative committee, which report appeared in 1835 and admitted in some articles that certain complaints of the mechanics were well grounded and ought to be relieved. That the trade was degraded by the entrance therein of prisoners the commission would not admit, but it did hold that the mechanics were thereby exposed and should be protected.

The crux of the problem was, obviously, the question of finding some proper and satisfactory employment for the prisoners. What could they do with the least competition with the petitioners? The bodily health and the

sanity of the prisoners required work. Labour was salutary and diminished crime. Idleness and the association of prisoners with each other was absolutely inadmissible, and would always lead to depravity and vice. Solitary confinement without labour had been proved impossible both at Auburn and Philadelphia. Transportation was an expensive failure. Banishment meant turning prisoners loose on other states, which would, of course, retaliate. Employment of prisoners on public works was no solution, for citizens (mechanics) were employed thereon as well as in mechanical pursuits. The work was, moreover, temporary.

To the commissioners the solution lay in placing limits on the number of prisoners employed in any one prison industry. Prisoners should be mainly employed in those branches whose products are supplied chiefly by importation from foreign countries. Publicity should be given to the time and place of letting contracts. To search out new trade, the commission might even send an agent to Europe. Such trades being once established, the commission believed the prisoners on discharge would no longer seek employment in shops of citizen-mechanics. Prisoners having no regular calling should be taught an occupation in which they could start on a small scale when they emerged from prison. The manufacture of silk was urged as a novel and profitable industry.

So strong was the pressure of the Legislature of 1835 that a law was enacted that promised material alleviation to the mechanics. We summarize it here:

No mechanical trade should hereafter be taught to convicts except for the making of articles chiefly imported from abroad. Artisans might be employed from abroad as teachers.

No contract for longer period than six months should be made by the wardens without the consent of the prison inspector. Due public notice should be given of contracts soon to be let. No contracts should be made for a period of more than five years.

In branches of industry supplied chiefly by domestic labour [as contrasted with labour in foreign countries] the number of convicts to be employed should be limited to the number of convicts *who had learned a trade before coming to the prison.*

Existing contracts should be fulfilled, but contractor should be urged, if possible, to abandon them.

The silk industry [growing and weaving] should be introduced.

Emphasis has been given to the words in the third paragraph above: *who had learned a trade before coming to the prison,* because this clause proved in practice to be a peculiarly useful and barefaced "joker" for the prison authorities during the next half decade. While the intent of the law was probably to limit the number of prisoners in *any* trade in prison only to those who already had practised that trade, the wardens of Auburn and Sing Sing prisons read the law literally and turned into trades all those who claimed to have followed *any* trade before coming to prison.

The silk industry never proved popular or feasible.

A few mulberry trees were planted, but the prison industries went diligently on. The wardens were unable to persuade the contractors to give up their lucrative contracts. Warden Levi Lewis of Auburn felt a great pity for the contractors, who had gone into the business with reluctance, as an experiment, and had taught the business to the prisoners. Why should the contractors now suffer unfairly and unjustly through general public letting of contracts? Moreover, while such competition might bring higher bids, the warden also worried lest some contractors might bid more than they could afford, thus bringing on a subsequent failure. If such contractors were prosecuted, they would appeal to the sympathy of the legislature. Any litigation in such an event would seriously demoralize the steady industrial activity of the inmates.

On their part, the mechanics had not come forward with any clear-cut proposals as to substitutes for the present system. They knew they were detrimentally affected by the system, but they could not bring forward any counter-proposals that would match in attractiveness the present conditions of industrial activities within the prisons. They talked vaguely about solitary confinement without labour, or transportation, both manifestly impossible and both involving the expenditure by the state of considerable sums without any economic return. Furthermore, both transportation and imprisonment without labour had an unsavoury history that could

be adduced against them. The petitioners should remember, said one committee of the legislature, that while they, the mechanics in certain trades, were complaining, most of the citizens were not at all worried about the situation.

So the arguments were tossed heatedly back and forth. Stress continued to be laid by the mechanics on the inadequacy of the prison punishments. A legislator, friendly to the cause of the mechanics, stated in a minority report in 1835 that a detention in prison was hardly dreaded any longer, and that there were many honest mechanics who would be willing to exchange positions with the prisoners.

We might parenthetically remark that the same argument has been one of the stock phrases of those who in these more modern times find fault with the so-called progressive prison administration, but we have yet to find any earnest effort of the so-called honest workman to make his way into prison. Many a workman who has suddenly been discovered to be dishonest has found his way there, but the universal experience has been that he desires to have his prison term cut just as short as possible.

Had the law of 1835 been made a joke? Most decidedly! Did not Mr. Wiltse, the warden of Mount Pleasant, report in 1840 that in the previous two years the prison had made $111,773 over all expenses? "A more unequal, unjust, and destructive system could not have

been devised, nor could more disreputable and dishonest means have been construed to perpetuate it," said the mechanics. The meeting again urged solitary confinement, but this time *with* labour.

At Mount Pleasant Prison, of 767 prisoners, 543 were working in nearly a dozen different contract occupations. Mr. Wiltse frankly acknowledged his interpretation of the law of 1835 to be that he could put a prisoner who professed a trade at any trade within the prison.

Senator Henry Livingston of this same committee made a minority report, stating that the law of 1835 was almost wholly useless as a relief to the honest mechanics. The revenue to be obtained from prison labour was the primary consideration and led to "the grossest irregularity and the most revolting inhumanity in the government of the prison." There was under Captain Lynds at Auburn a want of humanity in the treatment of prisoners suspected of insanity. It was generally assumed that such prisoners were feigning, even in the absence of all possible motive. Lynds had told several of his people that six blows with a cat were simply an aggravation; that he must have keepers who could not count six! For a trifling offense a prisoner had been stripped naked and whipped from fifty to five hundred blows—and the said prisoner was subject to fits! The treatment of deranged prisoners was revolting, beatings continuing until the body of the insane inmate was cut

from shoulder to heels. And no record of this punishment had been entered on the prison books.

He did recommend the wholesale removal of the present brutal officers. And, in truth, Captain Lynds and Mr. Wiltse both severed their connections in this year with Auburn and Mount Pleasant respectively.

Silence, said a prison committee, contained no reformative principle; it contributed to discipline, and it swelled the quantity of production to the contractor. Reformation must take place not inside, but outside the prison, through favourable circumstances, steady employment, good wages, and the enjoyment, by those who labour, of equal station with respectable men. Teaching trades in prison was like dipping out the ocean with a bucket. Moreover, the committee failed to find that the articles of confederation of the state afforded privileges to criminals; there was no specification contained therein that they should be instructed in agriculture or the mechanical arts. Criminals had sacrificed all the advantages of citizenship; they were placed in prison for punishment; they should be supported not by competing with the honest mechanics, but by a general tax. The agents (wardens) of Mount Pleasant and of Auburn were found by the committee to have broken high-handedly the laws themselves in perpetuating and renewing contracts.

But when it came to putting forward a constructive

substitute for the existing condition, the committee, despite its bitter diatribe and despite the general arraignment of the prison, offered relatively moderate recommendations. A noteworthy point in the report of the committee was the suggestion that to the largest extent possible the inmates produce the articles that they themselves could consume, and that could be consumed by those in the state lunatic asylum at Utica. Herein we find an early suggestion of the prison labour system that later was developed to a greater extent in New York than in any other state, namely, the State-Use System, the basic principle of which is the prohibition of the sale of prison-made goods in any open market, and, on the other hand, the manufacture by the prison of goods for the use of institutions and departments of the state and its political divisions, such as the counties, the cities, and the villages. In short, the theory of the State-Use System is that there should be the least possible competition between prison labour and free labour, and that, therefore, no industries should be carried on in the prison for the supplying of the open market in the state in which the prison is located, or any other state. But, since the state seeks thus to minimize any competition of prison labour with free labour, organized labour must recognize on the other hand that the state and its political divisions furnish themselves a market which free labour *can* supply but which to the greatest possible extent must in fairness be left for

prison labour to supply, since prisoners must labour for obvious reasons and there must be somewhere an outlet for their product. Chapter 282 of the "Laws of 1889" abolished contract labour and substituted what is termed the State-Use System.

The State-Use System is to-day operating in New York. The system is not yet concomitant with self-support of prisons through the labour of prisoners. New York State has yearly deficits of large amounts for the maintenance of its prisons, and no method by the State-Use System has yet been put into practice that has even approached a solution of the problem of maintenance of prisons by the labour of the inmates.

The lock-step and stripes were abolished in the early 'nineties and for the first time, in 1912, Warden McCormick, after organizing the Golden Rule Brotherhood among the inmates, permitted the prisoners out in the yard for recreation and to listen to a band concert. In 1914 Thomas Mott Osborne established a system of self-government which after a stormy life still lives, but functions in greatly modified form. An attempt is now being made to increase facilities for state-use production by the erection of modern buildings equipped with up-to-date machinery. Receiving and classification buildings are being constructed; psychiatrists, psychologists, and other specialists are attempting to shed light on the problem of crime and the criminal. Certainly, properly applied intelligence must have constructive

and permanent value. How much, only the future can determine.

NOTE: I desire to give special credit for much of the material for this chapter to a *History of American Prisons*, written by O. F. Lewis and published by the Prison Association of New York, all of which I have verified in an exhaustive study of institutional and legislative records and reports.

X

WHAT OF IT?

It was Mark Twain who drolly remarked that he had observed that although almost everybody complained more or less about the weather nothing was ever done about it.

In olden times the various gods were induced to provide the desired weather by sacrifices—sometimes human—gifts and prayers; but in modern days, although one occasionally hears of prayers for rain, or rain-making by magic for a price, the weather is left very largely to the moon, the vagaries of ground hogs, starlings, etc.

Crime is almost as common a topic as the weather, and although nearly everyone who discusses it has a solution to offer, very little has ever been done about it.

In olden times, the offender was believed to be possessed of one of the numerous devils, and, if torture or vile emetics did not dislodge the "evil spirit," the unfortunate person was killed or banished. Although we no longer assume "possession by the devil" in a literal sense, the assumption of wilful moral perversity amounts to the same thing, and we still kill or banish the criminal behind prison walls and bars.

No intelligent person now believes that sickness is punishment inflicted by God or the machinations of the devil, that kings and other leaders rule by virtue of divine right, that witches play a part in our daily lives, or subscribes to many other ideas that were commonly held a comparatively short time ago. Nevertheless, the idea of wilful moral perversity, which is the blood brother of these discredited notions of the age of ignorance and superstition, still persists in connection with those who are convicted of violating the law.

Well, what of it?

The whole subject of crime and the criminal must be stripped completely of superstition and tradition and restated, studied, and evaluated along scientific lines, just as has been done in recent years with disease.

We have learned that illness is not a "visitation" from either above or below, and that no one is "born" to have smallpox or pneumonia, etc. True, a given person may have been born with certain physical weaknesses which predispose to tuberculosis or some other illness, but the disease is not inherited. A person with such a predisposition may, through carelessness, catch a cold that will run into the disease, or the cold may be brought on through conditions over which the individual has no control. But even then the disease can be stopped and a cure effected by a physician who understands the disease and knows how to treat it.

The causes of disease are universally present and,

given certain conditions, no one is entirely immune. The fact that a larger proportion of the children of the poor than those of the rich have rickets does not mean that poverty is the cause. It is, however, an important contributing factor. To be rich, however, is no guarantee against rickets; if the diet is lacking in the necessary mineral salts, the results will be the same as in the poor home. Exposure in the homes of the poor may bring on a cold and pneumonia; and, on the other hand, too much protection in the homes of the rich may result in a cold and pneumonia.

Typhoid, which is a disease that indicates filth, sometimes appears in homes where conditions are ideal, the germ having been brought, perhaps, from a polluted stream miles away. How our forefathers who formulated the principles of our criminal laws and the prison system would have laughed at the statement that yellow fever is conveyed by means of a mosquito, and that the draining of swamps where the mosquitoes breed will do more good than tons of medicine.

Now, just as no one is born to disease, no one is born to crime. The heredity may predispose, but it is rare, if ever, that the weaknesses are so preponderant as to be compelling. The causes of crime are universally present, and no one is entirely immune. Neither poverty nor wealth is the cause of any crime, but under certain circumstances either may become a dominant factor. A pool hall or roadhouse miles away may, like the distant

swamp, harbour the virus which finds its way into an ideal Christian home, resulting in a crime which, on the surface of things, seems inexplainable, and may in fact be unknown to the man himself.

The assumption that a person perversely wills, without rhyme or reason, to do wrong in preference to right is ridiculous in the extreme. No man commits a crime merely to be bad or to get into prison. I have heard it intimated, for publicity purposes, that there were men who had committed crimes in order to come to Sing Sing, but I notice that they always have to be brought here, and that unless watched constantly they will leave.

Most people seem either unable or unwilling to think clearly about crime—their reactions are almost always emotional, and it is this which kicks up the dust that clouds the real facts. Worse still, they go to extremes of hate or pity. They either hate the criminal and would hurt him in a spirit of vengeance, or they pity him and would honey him in a spirit of forgiveness. They either consider the criminal as one who perversely chooses to do wrong, or as one who on deterministic grounds is not responsible for his acts.

Thus it has happened that in the past periods of harsh laws, long sentences, and brutal treatment of prisoners have been followed by lenient laws, short sentences, and more or less coddling of prisoners. One is fundamentally just as sentimental and hysterical as the other.

Just now this country is riding a wave of hysterical

severity. We read about "crime challenging civilization," "battling the criminal," and "the crime wave," in blazoned headlines that remind us of war times. In the last three or four years I have seen estimates of the annual cost of crime increase from around $2,000,000,000 to more than $20,000,000,000, each speaker or writer generously adding a billion or two to the previous estimate just to be on the safe side. I am frank to say that I don't know what the actual figure is, but I wouldn't be surprised if the smaller figure was a gross exaggeration. Just by way of indulging in absurdities, I might call attention to the enormous losses that would be involved if all at once crime should cease—I wonder what all the judges, lawyers, etc., would do for a living. Incidentally, insanity costs this country more than crime.

I read a great deal, too, about organized crime and other such nonsense. The truth of the matter is that, while there are occasional small "mobs," most crime involves no more than two or three individuals. An exception to this is bootlegging, and "they do say" that many bankers are not averse to financing this business. The powerful organizations representing the jewellers, surety companies, express companies, stores, hotels, etc., make the organization of crime on any large scale impossible.

This hysteria and propaganda have spread throughout the nation and found their way into legislative halls, with the result that old and discredited laws and practices are being dragged out, polished up, palmed

off as new, and offered as a cure-all for crime. A few years later the inevitable reaction will set in and the pendulum will swing back toward the other extreme. And so it will continue until the problem is approached along rational instead of emotional lines.

Now, the criminal act differs from a non-criminal act only in that the one is illegal and the other is legal. The impulse may arise out of the same instinct and the purpose may be identical. For example, both the robber and the merchant are impelled by the same acquisitive instinct, and both may intend to use the money they obtain for the laudable purpose of building homes for their loved ones. The difference between a man who goes to war to fight for his country's honour and one who assaults another man for a reflection upon his honour is that one is legal and the other is not. To sell a fifty-cent shirt for $1.09 is considered "good business," but to sell fake diamonds for real ones is illegal and, therefore, a crime.

The essential phases of criminal and non-criminal acts are the same; they differ only in that the former is out of line or adjustment with custom as expressed by legal statute. The problem of crime is, therefore, fundamentally a matter of securing and establishing acts that will conform to the laws. How can this be done?

Life is a continuous struggle for adjustment and adaptation. Man is endowed by nature with certain tendencies which are intended primarily to assure the

survival of the individual. The social tendencies are secondary to these and are developed from them by a slow process of adjustment in which home, school, and church are the primary agencies.

The first six years are probably the most important in life. This period, in which the child adjusts itself to the world of the family circle, largely shapes its character and determines the trend of its later reactions and adjustments. If the home is social, the adjustments will be of value later; if not, they will lead to conflict with society. Consider the behaviour patterns or types of adjustments that will be established if the child is spoiled, or if the mother in incompetent. It is true that a doting mother and father can be as bad for a child as cruel ones. A good home is not necessarily one located in the best neighbourhood or where the mother and father are members of the church and kind to the children, as a child is such a home may not develop social adjustability. There may be just as much harm in too easy adjustability, which comes through the breaking of a child's will or spirit, as from a too slow adjustability, due to lack of mastery and proper direction of the will.

A *bad* home, environmentally, economically, and religiously speaking, may be a *good* home from a social adaptation standpoint, and vice versa. This explains why outstanding citizens often come from homes where one would expect criminals, and why criminals come from

homes which one would expect to be conducive to the development of good citizens. Three types of bad homes are well described by Dr. Charles Platt, as follows:

There is a home—and our cities can reproduce it by thousands—where there is no decent home spirit, a home which is in fact but a poor sort of lodging. The husband is out of work, and is morose and irascible; the wife is distracted, fault-finding, and unable, There is food which is deficient in quality as well as in quantity. poorly cooked, and unsatisfying. There are bare walls, dilapidated furniture, no sanitary decencies, promiscuous living—maybe but one crowded bedroom, cold in winter and stifling in summer. The man lounges at the corner, or attends anti-social meetings; the woman gossips with her neighbours over the injustice of life. What will become of the children of this home? Is it any wonder if the young boy there begins running with a freedom-seeking and trouble-making gang? How else can he demonstrate his manliness? His ego has been hopelessly cramped, his pride has been stamped upon—and his crying brothers and sisters do not attract him. He may indeed go against all the better social ideals, but who has there been to give these to him? The gang is for him society, and he exercises within it the only sociability he knows. It is not his sneering father who will set him straight, nor yet his overworked, harassed mother.

But squalor and misery aside: There is another home where there is, we will say, decency and order, and plenty to eat—but where there is, too, egoism in plenty, narrowness, and brutality. There is arbitrary repression, the attempt to make the children act as adults, a tyranny of force with punishment ever in the foreground. The child of that home is destined a slave of fear, his tissues are poisoned with the toxins of fear, he has no healthful possibilities. There is for him just this choice—he may accept the situation and become a cowed, deceitful, and sly imitation of a child, or he may compensate for his realized degradation by assuming a bravado of brazen insolence.

And once again: There is another home, one all luxury and indul-

gence, where, however, the child is denied that basic right of childhood, the right to a proper guidance. Misfortunes there will be blamed upon others; the child will be "protected" from all the realities of life, it will be "guarded" against all responsibilities. Duty will be something pertaining only to servants. That child will likely be selfish and vain, intolerant of criticism, resentful of disappointments. When difficulties come, he will have no resource but to inveigh against fate. This child is destined to an ultimate, spiritual isolation in life—so long as he has money, and will spend it, he will be surrounded by flatterers, but of friends he will have none. When the money gives out, his companions will withdraw; they will find him then just ridiculous and tiresome. And then will come bitterness and cynicism, and, finally, a whining dependency. Egotism and whining—those two, sooner or later, always come together; the one who thinks of others is generally too busy to be able to find time for self-pity.

I hear and read a great deal of condemnation in connection with the alleged breakdown of the modern home. Personally, I believe that the modern home compares favourably with the homes of former periods, when there were both good and bad homes, just as there are to-day. Doubtless there is room for improvement, especially along the lines of the formation of positive habits. It has always seemed to me there is too much of the negative—don'ts—in the home, and not enough of the positive coöperative spirit of "let's do"—and this applies to prisons, too.

It is widely believed that the broken home is a large factor in criminality. It is a fact that the number of prisoners whose homes were broken by the death of a parent or by divorce is greater than the expectancy, but

the delinquency is not as much due to the broken homes as to the institutions into which the children were placed. Personally, I consider almost any kind of a home preferable to an institution, particularly those where the discipline is stern, or what is usually termed "good." The most severe children's institutions in this district have furnished Sing Sing the largest proportion of prisoners, and particularly those known as "habituals," or fourth offenders.

The school receives the child at about six years of age, and this new environment calls for further adjustments which involve the dropping of many individualistic reactions and a constantly increasing number of social adaptations. Some of this is incidental to the learning of the three R's, but I believe that social training should be a conscious effort and that learning should not be made an end of itself as it is of questionable value unless the social point of view is inculcated. Education is as much of a problem in crime as ignorance—the educated criminal is probably more dangerous than the ignorant. There is no inherent virtue in learning; it has social value only when socialized. It is my personal conviction that all of our schools, from primary to university post graduate, are failing badly in this respect. Certainly it cannot be claimed that education has decreased crime.

What shall be done? What can be done? I quote in part from the final report of the Committee on School Inquiry of the City of New York, as follows:

It is the proper function of the school to act as an intermediary between the individual and society. Its primary duty is to develop the good and inhibit the bad inherent traits of the child in the light of their relation to the social order.

The school should give to its pupils a mastery of method. The basis of this method is proper coördination between the child's mind and body; in a word, rational self-control. The school can assist in such coördination by the inculcation of purpose in the child by teaching him to appraise the different values of things, by assisting him in organizing his ideas, and, finally, by teaching him to forge ahead and exercise his initiative. But the desired mastery of method can be most easily assisted by the school through activities —constructive team-working activities related in a directly serviceable way to community needs and to the furnishing of an immediate economic stimulus to the child. A curriculum aimed at the teaching of method would therefore be built upon (a) productive work, (b) participation in economic distribution and consumption, (c) citizenship effort, (d) romantic interest embodied in æsthetic expression and group life, and, (e) natural science, both as a subject-matter and as a technique related to the other subjects. If the work is made concrete and direct enough it will be simple and attractive. It is present-day abstraction that makes school work difficult and complex.

The school should do its part to induct the child into life about him instead of divorcing him from it. This means not merely or primarily relationships within the school, but rather relationships with the general environment, whereby the successive psychic and psychological stages of child life would be progressively bound up with the general life toward which the child moves.

The school should induct the child into industrial and economic life far enough so that his education will serve as a vocational aid. . . . As a separate responsibility of the school this duty does not become separate and permanent until toward the end of the high-school course. It should always be a part of the duties of the school. . . . to keep the facts of industrial and economic life prominent, and they will have their place as a matter of course, if the work of the school is made sufficiently concrete.

The school should give attention to physical education and correction of physical defects. . . . The correlation of school work with other public work such as that of the department of health, public charities, children's courts, and public recreation, if properly carried out, makes provision for the checking up of knowledge gained at school and the consequent moral, mental, and physical readjustment of the individual in his environment. . . .

Every child should be brought to realize the value of his leisure time and how to use it to the best advantage. If he is taught to make use of that leisure along with his family group, the yawning chasm between the city parent and the city child will be successfully bridged over and moral shipwreck will be prevented.

The adjustment sphere of the home may be said to be largely along the line of social habits and the school sphere along the line of social thoughts. The sphere of the Church and religion is, or should be, in the realm of social feelings. Right habits, if well ingrained, are valuable and sufficient for much of the routine of life; right thinking gives these habits meaning; right feeling vitalizes them. Unless one feels that an act is right, the habit soon lapses and the thought ceases to have meaning. The Church, then, has a most important field, and its functions, if neglected, can and do lead to grave consequences.

The Church has in the past been a very important factor in social development. But much of its former power has been lost. This has been due, in the opinion of Burdette G. Lewis, to the fact that

. . . organized government has taken over much of the work formerly performed by the Church. It has lost influence to a certain

extent also because men have responded to their physical environment more rapidly than to the spiritual—apparently because the physical can be seen and is something which a man knows he may change through his own exertion and that of his fellows'. Man's consciousness of his power to practically revolutionize his physical environment has laid hold upon his imagination and interest strongly enough to encroach seriously upon his interest in the unseen, the spiritual. The church, therefore, has often been allowed to maintain those relationships and to promulgate those ideas which were the outgrowth of an earlier period of social evolution, whereas present relationships and forces fill the mind of the ordinary workaday man in the midst of a more or less materialistic world.

It has been impossible for the church organization which was satisfactory to men living within the pale in Russia or Rumania or other sections of Europe to remain wholly satisfactory to these same people after migration to other countries. It has been even less satisfactory to the children of those who have migrated; to them certain ethical and religious maxims and practices have quickly lost their significance—especially in America. Some of these religious practices have had to do with health and sanitation, but have been placed by tradition and custom upon a footing almost equal to the fundamental principles of religion itself.

When the young people once learn that these conventions have lost their significance in the New World they frequently fail to apprehend the fundamental differences between these rules or customs and the Ten Commandments, and feel at liberty to violate the latter as well as the former. Frequently the result is moral shipwreck. If these younger people could be persuaded to acquire more experience before they discarded all the teachings of their fathers it would be possible eventually for them to appreciate the fundamental differences between national customs which have been given religious sanction and the fundamental principles of man's relation to his Maker. Their eagerness to become Americanized, as they understand it, is often their undoing.

It is incumbent upon all religious leaders and teachers to prevent the shipwreck of young lives. Where the parents are regarded by

their children as "old fogies" and out-of-date, the religious teacher must come to the rescue and offer that help and advice which at critical times is absolutely necessary if the young men and women are to be saved from themselves. Just how this is to be accomplished is a problem calling for wise leadership and liberal-minded treatment. The difficulty of solution does not lessen its necessity, but rather increases it, for religion never was more essential than to-day as a means to prevent the development of the criminal.

I find myself in general agreement with this statement of the matter, but I wish to make it clear that I do not consider religion a panacea for crime, because I have found that many criminals are truly religious, and that there is just as much crime in countries which are most religious as there is in those countries and communities that are less religious. Combined with other constructive factors, however, it is a valuable influence toward social efficiency.

Many of the problems of childhood and adolescent social adjustment overlap and can best be met by the coöperation of home and the school, home and the church, or home, school, and the church. There is, for example, the important problem which the impulse to play presents. Children must play, and will play, and their play activities may be of constructive social value, or lead them into conflict. Largely as a result of lack of space to play socially useful games, the children of the city streets take to petty gambling with dice, cards, etc., and these, in turn, lead to petty thieving and, sometimes finally to the electric chair. The city home can do little

to meet this problem, but the schools, by making their grounds available, or by supervising play in parks and public playgrounds, can accomplish a great deal more than has been done. The church in some instances can help with this problem by organizing Sunday-school clubs and coöperating with organizations like the Boy Scouts and Girl Scouts.

It is in providing proper recreation for the leisure time of the young men and women past school age that the church can render highly constructive and greatly needed service. It avails nothing to decry the pool hall, public dance hall, and gang "hang-outs," which tend to throw the young out of adjustment with society's requirements, if something is not provided to properly direct the inherent gregarious impulses.

In past ages, certain barbarian kings ordered swollen streams lashed with switches in punishment for overflowing and bringing destruction. "How foolish!" you say. Yes, but are we any wiser for wreaking vengeance upon the young who, in the exuberance of perfectly natural inherited impulses, commit antisocial acts because there is no constructive social outlet for their tendencies? Nowadays we harness the power that is inherent in the stream, and by dykes and dams divert its energy into useful channels. We can do the same for the energy that lies in human impulses when we once get down to fundamentals and approach the matter from a practical standpoint, instead of following traditional

procedure which was established when streams were whipped for flooding.

At the ages of sixteen to twenty, on the average, boys and an increasing number of girls enter into the workaday world which calls for a new series of adjustments. Most of them are poorly prepared, as few of them have done any real work. With very few exceptions, they have no trade—not even the elements of a trade. Their education in most instances has unfitted them for the humble tasks of a labourer, and, as they cannot do skilled work, they gravitate to "white-collar" jobs in stores, banks, offices, etc.

Here is one of many examples I could give which seems to illustrate the situation and some of its dangers: A young man, reared in an excellent home, sent to college, and given plenty of spending money, is unwilling to learn his father's business which would require a long period of apprenticeship as a labourer. Through his father's influence, he secures a position in a bank which, while it does not pay him as much as he would have earned as a labourer, is considered as more in keeping with his family's position and his college training. The young man naturally feels that he must dress and act the part of one who is identified with a leading bank, so he soon finds himself in debt, but is unable to secure funds from his father, who properly feels that the boy should look out for himself. The young man, pressed

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SING SING PRISON, SHOWING CELLS

by creditors and in desperate need of money, decides to make a clean-up on the races, whose possibilities of 10 to 1, 50 to 1, are dangled before his eyes in the leading daily newspapers; or perhaps he decides to play the stock market on margin, as he knows the president and the directors of the bank to be doing, and he "borrows" money from the bank by manipulating the books. In either case, the result is inevitable, and unless his father and friends have sufficient influence to secure him a suspended sentence he is sent to Sing Sing.

Who, may I ask, is responsible for this crime? The moral perversity of the young man? The school in not properly fitting him for a job instead of a position? The doting parents in creating habits which he could not sustain by his own efforts? The newspapers in carrying racing news and charts which serve no other purpose than to foster gambling? The bank president and directors in setting an example of loose business practices? Now, frankly, are not all of them at fault except the fictional "moral perversity" of the young man?

Arthur Brisbane often refers to "the great American pastime of passing the buck." Herein lies much of the difficulty of making a rational attack on the crime problem. The schools are blamed, but not by the teachers; the churches are blamed, but not by the preachers; big business is blamed, but not by business men; the automobile is blamed, but not by automobile

manufacturers; the laws are blamed, but not by legislators; the courts are blamed, but not by judges; the theatres, but not by theatrical producers; the movies, but not by the moving picture magnates; the newspapers, but not by editors; and so on—but "the buck" is always passed to someone else and usually to the criminal himself. Society (the teachers, preachers, business men, etc.) seems never to have seen the inconsistency in crediting itself for man's virtues, while at the same time disavowing any of the blame for his faults.

Challenge, if you will, the practice of newspapers in furnishing racing charts and racing news, without which gambling—which is a big factor in crime—would be impossible, and you will be told that "the public demands this news, and, anyhow, the other papers furnish this information." Challenge the wisdom of headlining crime and publishing column after column of details of crime (the more salacious, the more space), and you will be told that this is "news" that the public wants and is entitled to; or you may be assured that such news is a deterrent to crime, which is untrue. Challenge the right of a newspaper to smuggle a camera into the execution chamber and take a picture of a woman in the throes of death and then reward the photographer with $100 for violating his word of honour, upon which he was admitted in the chamber, and you will be told that "all is fair in love, war, and newspaper competition," and that the public wanted it as evidenced by the fact

that they bought a million additional copies of the newspapers containing the picture—more papers than were sold when Lindbergh made his historic flight to Paris.

Now, I freely admit that many of the public (perhaps the majority, though I sincerely hope not) wanted this picture. I know for a fact that many of them, including even wives of high public officials, came to Sing Sing expecting to be permitted entrance to the death house for a sight of this woman in her solitary cell. On the day she was brought to Sing Sing enormous crowds, composed not only of women and children but sprinkled with politicians and business men, gathered along the route and around the prison gates in the hope of seeing her. Airplanes circled overhead, and a stranger looking on would have thought homage was being paid to a modern Joan of Arc. I do not doubt that many people wanted to see her after the fateful man-made lightning reduced her to a mass of burned flesh, and that, if the body had been offered for exhibition, hundreds of thousands would have fought for the privilege of buying tickets. On the night of the execution, more than twenty-five hundred men, women, and children stood around the prison gates until 2 and 3 o'clock in the morning. Why?—Ignorance!

It has been contended that the execution, with all of its sickening details, some real but most imagined, was news. After reading some of the newspaper accounts of this execution and the events leading up to it,

I am wondering if I can believe more than 2 per cent. of the "news" in the newspapers. Daily stories purporting to come from the death house were, as a matter of fact, written in New York and manufactured almost entirely from odd bits of gossip, although in one instance a relative peddled for a price and by word of mouth some data around which a story was written, and in another instance a visitor smuggled out some scribbled notes. I leave it to the reader if most of what was printed as "news" was not salacious and if it was not printed primarily because it sold more papers.

Frankly, I do not think that the mere fact that a large part or even most of the public "wants something" is justification for furnishing it if the something is essentially detrimental and destructive in character. The South wanted slavery, the Jews of Jerusalem wanted Jesus crucified, and a large part of the public wants suggestive plays and books. I think one of the great troubles of the times is that nearly everybody "wants what he wants when he wants it," and isn't particular about the way and means. And I wonder if, to say the least, some of the newspapers, big business men, politicians, preachers, etc., are not setting a bad example in social ethics.

Next to the newspapers, the moving pictures are probably the greatest of the agencies in directing the thoughts and feelings that lie back of and lead to action. Do they foster social adjustment, or do they tend to

inhibit and break up this adjustment? Most of the moving picture producers are giving *their* public what it wants—which is *unreality*, a sort of a cheap blood-and-thunder story, or a combination fairy-and-filth story. Here are shown predatory idlers in luxury, the rich exploiter of labour, and the violation or attempted violation of virtue, and so on, all in elaborate detail. Such movies contribute nothing constructive, but they do give many false moral concepts, false ideas, and false ambitions to a class of people to whom the movie story is real. I do not think it can be successfully denied that the repeated portrayal on the screen of the luxuries and ease of the wealthy has not created in the minds of many young men and women desires which have made it impossible for them to adjust themselves properly to the circumstances of their lives. There are some good moving pictures, of course, but many, many more are needed to take the place of the bad ones.

As social creatures, men seek equality with their fellow men, and a feeling of inequality is insupportable to the normal man. A group of soldiers will uncomplainingly eat hardtack and beans, but almost to a man they will resent one of their number being fed cake and chicken. That is to say, inequality fosters inadjustment. Poverty is very generally regarded as a cause for crime, but as less crime is found in poverty-stricken countries, it is clear that poverty is not a cause in itself. The truth is that poverty is a factor in crime only when it is

present with wealth which creates a feeling of inequality and thus throws the poor out of adjustment. It would in a certain sense be correct to say that prosperity is a factor in crime, and, in fact, the economist, Roger Babson, so states. It is my belief that the lavish display of wealth and arrogance before the law of many of the rich is the primary source of a great deal of crime.

I have thus far briefly discussed what I consider the primary forces making for or against social adjustment, and before I treat the secondary forces I wish to point out that there should be some means of sorting out from the mass those individuals who from the cradle up fall by the wayside, so to speak, by failing to adjust themselves. Sometimes, with individual treatment, which may be for either physical or psychical abnormalities, they can be readjusted. Otherwise they fall so far behind that their adjustment is impossible and jail and prison or insane asylum become inevitable in later years. Why must we wait until a crime is committed, when any man with common sense, to say nothing of the expert psychiatrist and psychologist, can see that an offence is inevitable because the individual is unable to adjust himself socially. Sometimes such an individual requires no more than a mental crutch, but occasionally institutional treatment and custody is required, and this should not be delayed until a crime is committed. Much of our crime *can be prevented.*

One of the greatest, if not the greatest, of the second-

ary forces for social adjustment is the policeman. To the great mass of people the policeman is literally the law; and the policeman is, or should be, the most effective of the secondary forces for social adjustment, the courts and prisons following in order.

The modern police system, as we know it in America, is a development of the night watchman of the colonial period, whose task was that of guarding the village, seeing that shop doors were locked, and calling out the time at stated intervals. In recent years there has been a growing tendency to include more and more of the functions of constables and sheriffs and to emphasize them to the point of making the police the aggressive "strong arm of the law," instead of a protecting arm, as it should be.

I consider the first and true function of the policeman to be that of a kindly but alert watchman, preventing crime by his watchfulness, and not as an aggressive wielder of a "night stick." I agree whole-heartedly with that great police commissioner of New York City, Arthur Woods: "The preventive policeman is the policeman of the future. Police forces must try to keep crime from claiming its victims as boards of health try to keep plague and pestilence away."

I do not believe either in "hard-boiled" police or, on the other hand, in "soft-boiled" ones. There is a happy mean—the policeman with common sense who uses force and extreme measures only as a last resort. Such a

policeman, and I am glad to say we have many, creates respect for his uniform and for the law, but, unfortunately, one policeman of the grafting type, or the "hard-boiled" gentry, altogether too common, often offsets the good work of a dozen of the finest. Improve the personnel of the police force, train them in the social point of view, pay them well, and eliminate politics and you will do more to reduce crime than all the legislators, courts, and prisons combined can do.

I have mentioned respect for the law, and it seems to me that this point deserves emphasis. In the making of laws and in the organization of the police, court, and prison systems we have relied entirely too much on the efficacy of *fear*, and too little on *respect*. Fear is a negative, transitory emotion which is evoked only in the presence of what is feared, and wanes rapidly and often ceases entirely later when what is feared disappears. Self-respect is a positive, permanent emotion whose effectiveness is just as great at one time as another. I ask the reader if it is not a fact that respect for a teacher, for example, is of greater importance and value than fear.

It is my firm conviction that *lack of respect* for the law and all that pertains to its functioning—legislators, police, judges—explains most of the lawlessness of today. Why does this condition exist?

In the first place, it is the general belief that most of the laws are dictated by and made for the protection

of the "haves," and with very little regard for the social rights of the "have nots." Anent this point, from many who could be cited, I quote that great lawyer, Samuel Untermeyer:

Nothing is gained by blinking the fact that we have no respect for the law. We have become a lawless people. The masses believe, and not without reason, that there is one law for the rich and powerful and another for the poor and friendless. If that conviction is permitted to grow it will spell the eventual downfall of our institutions. The chain is never stronger than its weakest link and the administration of the law is the weakest link in our scheme of government.

The spectacle that has been and is being enacted before our eyes, day after day, year in and year out, for the past four years in the oil prosecutions is an object lesson that has done more to breed contempt for the law and to promote lawlessness than the escape of one hundred murderers and a thousand corrupt politicians. We find men of vast wealth and high position in the social and business world, great captains of industry, evading the processes of our courts and remaining for years beyond its jurisdiction to defeat the ends of justice and to assist in cheating their own government.

After the highest court in the land, following a full hearing, has twice branded a Cabinet officer as a traitor to his sacred trust and a co-conspirator with two of the richest and most outstanding industrialists of the country to rob their government, the machinery of the criminal law has broken down and the government finds itself helpless to punish.

But what shall we say by way of explanation of the pathetic and ignominious pass to which the anti-trust laws have been brought. Except for a few insincere convulsive gasps and gestures now and then, the law is as dead as a door nail, killed by the money power, except when wielded, and effectively so, as a club against organized labour, to which it was not intended to apply.

Everybody of even ordinary intelligence knows that the wealthy commit crime but are rarely tried and almost never sent to prison. As Senator Ingalls once said:

> We punish the man who steals a loaf: we hail the man who by monopolies makes the loaf smaller and coarser. If a man steals a bar of iron, we railroad him to prison; if he steals an entire railroad, we say he is a financier.

Arthur Brisbane, writing in connection with the offense of a group of wealthy men, said:

> Do you think that anybody will go to jail in this connection? If you do, you are innocent. He who steals a suit of clothes goes to jail. He who "appropriates" a hundred million goes to Europe.

If a wealthy man, or the son of a wealthy man, kills, he is insane or deranged and usually either goes scot-free or to an insane asylum, but never to the gallows or to the chair. If a poor and friendless man kills, he is a sane man who committed wilful murder for which he must die.

Another condition which makes for disrespect is the puerile attempt to perpetuate the old assumption of the near-divine infallibility of the law, the verdicts of juries, and the pronouncements of judges. True, there are some who still believe in the miraculous potency of the law, some who believe that the election of a man to the Legislature somehow makes him omniscient, that officers of the law are invested with a sort of majesty when they don a uniform with a badge on it, that jurors

become imbued with judicial insight when they enter the jury box, and that a politically minded lawyer, when elected to the bench by appointment or popular vote, becomes a Solomon possessed of a wisdom that enables him to render justice. But nearly every schoolboy knows differently, and I for one believe that this silly attempt to give dignity to a lot of fol-de-rol calculated to inspire awe is in our times a fertile source of disrespect of law and the courts.

I believe that a worth-while and true respect for law is essential, and this can be built up without the idea of infallibility or majesty. I have found in my prison experience that prisoners respect those rules which are fair and equally applied. The minute, however, that such a rule is applied with partiality, even those who benefit thereby lose respect for it. I have found that I get better results with a few rules of a general nature which leave mere details up to the individual prisoner than were secured under the old prison system with hundreds of rules and a guard for the enforcement of each small detail.

In the United States we have gone well-nigh mad legislatively. Instead of a few clearly defined laws, we have thousands upon thousands of ambiguously written laws about whose real meaning and intent there is a difference of opinion even among our leading jurists. With each succeeding legislative session new laws, most of which are poorly conceived and many of which are worse than useless, are written into the statute books.

Frequently those laws do not represent the real wishes of the majority and they become dead letters, or even worse, sources of graft which corrupt police, the courts, and the citizenry. A police chief of a large Western city stated that half of the police were involved in bootlegging and that, of course, implies that the mass of citizens were buying booze.

It is of interest to note here that former Justice Hughes, in speaking of the multiplicity of laws, said:

> Lawyers decry the multiplication [of laws] in the meetings of bar associations and then, sitting in legislative halls, do their full share to increase them. . . . The evil resides not merely in the number of laws; it is in badly drawn laws.

Our legal system of determining guilt and dealing with the criminal looks back to mediæval metaphysical and theological assumptions and procedure. No one expects a tallow candle to give illumination equal to an incandescent light, or an ox cart the comfort and rapidity of the automobile—can we expect more of antiquated legal machinery?

A law is violated and a certain person is accused. Is the accused guilty or innocent?—this is the first question to be determined. How is this done? The traditional procedure is to bring the accused before a judge and jury where the facts (?) are brought out by a prosecuting attorney representing the people and an attorney representing the accused. The judge interprets the law

as the trial progresses, the jury passes upon the question of guilt by a vote that must be unanimous, and finally the judge sentences the convicted.

This seems simple and sounds logical, but actually there are numerous fundamental defects which, with the addition of hundreds of technicalities that have crept into the activities of the various units of the system over a period of nearly a thousand years, have rendered it highly inefficient.

First of all, let us consider the jury. Theoretically, the jury is composed of "tried men and true." Actually, in the words of Harry Elmer Barnes, the jury is "a group of utterly untrained and usually quite unfit men, singularly responsive to rhetorical arguments by opposing counsel."

Charles Platt says:

> Consider the jury. We find it to-day a group of men, generally of an inferior type, a befuddled and wondering group, to which the whole court procedure is directed, and to which all of the attorneys' arguments must be lowered. We tag certain citizens to perform a duty calling for the keenest minds and then, when we happen to tag someone who is able for the task, he promptly gets excused. Suppose the case on trial is one that has excited public interest. A juryman, to be acceptable, must be one who has formed no opinion. Every intelligent man in the town has probably discussed the case freely, but we must find twelve men so preternaturally dull that the whole thing shall pass them unnoticed. But finally the jury gets selected. . . . It sits obediently through the maze of the trial, tries to keep awake and to look wise, and then votes in the end to decide—which is the better lawyer. . . . A physical characteristic will sometimes sway a verdict. A blue-eyed, clear-skinned

youth has a far better chance than has a dark-eyed swarthy one. . . . A pretty face, a sobbing mother, a clinging child, may bring verdicts, not only against the law, but against public safety.

The jury is not the only weak point in our legal system. The trial procedure is faulty in many respects. Theoretically, the purpose of the trial is to arrive at a decision of guilt or innocence. Actually, the prosecuting attorney is trying to convict and is careful to bring out facts to prove guilt, while, on the other hand, the defendant attorney is trying to free his client, even though he may be guilty. An ambitious prosecuting attorney, anxious to establish a record for convictions preparatory to his candidacy for the bench, may and sometimes does become a *per*secuting attorney. On the other hand, leading attorneys sometimes prostitute their abilities in the successful defense of rascals who can pay the price demanded for their services.

The modern trial is frequently little more than a battle between attorneys. If the defendant is poor, he of course gets a cheap lawyer or one furnished by the state, and in this case the advantage lies with the prosecution, as the district attorneys are usually men of fair ability. If, on the other hand, the defendant is rich or has wealthy friends, leading lawyers will be retained, and the advantage will be with the defense. It is well to bear in mind that a conviction does not necessarily mean guilt, nor an acquittal innocence. There are many who believe that these and other faults of the trial system can

be remedied by giving the judges more power. Superior Court Justice Martin Kavanagh, for example, says in this connection:

Under the system which prevails in most of our state courts the conduct of a criminal trial is transferred by force of statute from the hands of an experienced impartial magistrate to the eager partisanship of the hired lawyers. It transforms the sworn judge into a mere ringside referee who must regard himself as without care whether the wrong or the right side win so long as the champions fight according to the rules of the roped arena. This system does not concern itself so much with whether the victory shall rest with the juster cause, but rather that success shall fall to the smarter lawyer. Through a criminal trial the judge must be present, but he shall not participate, no matter how sorely justice may need his assistance. He may recognize falsehood cunningly disguised passing for truth, but he dare not lift a warning finger; every day at his side some honest witness struggling to publish the truth writhes confused, embarrassed, and badgered into appearance of falsehood, yet the judge must stop his ears and let the disaster wear itself to the untoward finish. Clean character may be successfully aspersed, a good reputation mendaciously assailed, false charges against innocent and reliable witnesses may be broadcasted from his courtroom, but the judge is forbidden to expose the mendacity; when subtle but clever and compelling appeals to racial, religious, or other passions, prejudices, and sympathies are set fire to, he is commanded to turn his face away so that even his manner shall not betray his discontent. In other words, the judge may see all the instruments of fair play changed into weapons of oppression and, although he has the power, he has not the right to interfere.

If we desire an improvement of criminal justice in America through the exercise of judicial power, the first step in bringing this about must be to abolish this grotesque travesty on civilized legal procedure and by doing so restore to the sworn representative of impartial justice his ancient authority to actually participate in the trial.

The chief objection to this proposal to invest the judge with wider powers in the conduct of trials comes from those, including many judges, who point out that law and justice are not one and the same thing, and that, in fact, strict interpretation and enforcement of the law may result in grave injustice. They contend that the average jury is quite able to sift out the grain from the chaff in the evidence and arguments presented by the lawyers, and that the balanced judgment of twelve men, even though they be unlearned in the law, is more likely to yield even justice than the decision of a single judge whose viewpoint is legal and traditional. A high German legal authority recently said in this connection that "for every gram of legal lore a judge should have a hundredweight of knowledge about life and mankind—his viewpoint should be social rather than legal."

Attention is also called to the fact that, despite their "ermine," judges are human, just as prison wardens are, and that as individuals they are no more infallible than other individuals. They point out that most judges start as political-minded lawyers and as such carry political obligations; that, occupying an elective office, they are influenced either consciously or unconsciously and adapt themselves to popular prejudices and influences and cater to newspaper publicity which portrays them as stern and severe judges when the public is in an avenging mood and as kindly and merciful judges when the public is sympathetic.

It is further contended that to give the judge wide powers in directing the trial and the sentencing power as well places too much authority in the hands of a single man. True, there is the right to appeal if the judge should fail to give a man his full rights under the law, but it often happens that the convicted man is unable to bear the expense of an appeal. In a recent case four young men were convicted of robbery and given long sentences, but it happened that one was able to appeal, with the result that his conviction was reversed and the indictment dismissed. The governor immediately pardoned the others, one of whom had a sentence of twenty-five years, but suppose that the one man had not been able to appeal. It happened that the prosecuting attorney and the judge, both able men and learned lawyers, were confident both as to the law and their guilt, but the Court of Appeals ruled that no crime had been committed.

In the judgment of Edwin H. Sutherland:

> The judge is not able to perform in a satisfactory manner the other function of imposing sentences. The evidence presented in court is designed to show merely the fact of guilt or innocence; that is entirely insufficient for the purpose of determining what should be done with the individual who is proved guilty. It is necessary to know the entire character of the offender, and the possible effects of different methods that might be used in dealing with him. The judge must fix penalties by guessing at the character of the person on the basis of his appearance and of incidental information that has come out during the course of the trial. No matter how wise or honest the judge may be, he cannot determine treatment in

a satisfactory manner by means of the information which he has. Because judges have no good basis for determining treatment, they vary immensely in their policies. One judge in New York placed 7 per cent. of those convicted on probation; another judge dealing with offenders of the same types placed 40 per cent. on probation. Some judges establish a reputation of severity and criminals secure a change of venue in order to come before another judge who has a reputation of leniency. It is reported that one judge ate his breakfasts in a restaurant near the court building; the lawyers who had cases in his court made a practice of going into the restaurant to observe him, for his sentences would vary by years with the state of his digestion; they secured continuance on the days when they observed he had indigestion. It is impossible to avoid such variations with individual moods and prejudices unless objective standards and objective information can be applied. Attempts have been made to assist the judges by field investigations by probation officers, by psychopathic laboratories, and by other agencies. It is clear that such investigations need to be extended very greatly, and to these agencies should be transferred most of the work of deciding what to do with the person after conviction.

Well, what of it? What of these divergent views?

The present procedure, while not, of course, wholly bad, is highly inefficient, with crime continuing at a rate that is inconsistent with modern civilization. Chief Justice Taft, in fact, has said: "The administration of criminal law is a disgrace to our civilization." If this is true, isn't it time for us to try something different, or, at least, make some radical changes?

Views as to just what changes should be made naturally differ. Some, like Judge Andrew A. Bruce of the Law School of Northwestern University, would revise the present system. He says:

We need a revision of our entire criminal code and that revision should be carefully and scientifically made.

We need also to give more thought to the length of the prison sentence. Never, at any time in America, has any scientific thought been given by our Legislature to the proper measure of punishment in criminal cases, and our legislators have recklessly prescribed penalties without any realization of what those penalties involve. Many of them are too long, many of them are too short.

If the aim of the criminal law is punishment, and punishment alone, there should be some means of determining how much punishment and how much suffering a sentence of one, or five, or ten years involves. If the purpose of imprisonment is to reform the delinquent and its chief object is to prepare him for a return to society on a parole, there should be some means of ascertaining the reformatory and educational value of every month or year of incarceration.

Someone, indeed, has suggested that every judge and every legislator and every member of the Board of Parole should, before his election and appointment, have served a term in jail and though I do not wish to be misunderstood, I cannot help but feel that there is some wisdom in such a suggestion. Unless we ourselves have suffered it is very difficult properly to gauge or understand the suffering of others or the reformatory or educational value of that suffering, and to determine its measure and how long it shall continue.

Others, including leading criminologists, would wholly drop the presumption of the criminal as a "perverse, free moral agent" and rewrite our protective laws along modern social, psychological, and biological lines. Emphasis would be placed upon prevention of crime and the agencies for social adjustment would be strengthened. Those individuals who at any time proved incapable of adjusting themselves, would be segregated,

regardless of whether or not a crime had been committed, and receive treatment calculated to assist them to meet society's requirements. If the treatment proved successful they would be restored to their place in society with no more stigma than attends the person who has been sick in a hospital. If unsuccessful, the individual would be kept segregated for life, if necessary, just as is now done with incurables. The idea of punishment would be dropped and, in any case, would be incidental to treatment rather than treatment being made incidental to punishment.

The function of the Court, which would consist preferably of three judges, would be solely to examine the evidence and determine guilt or innocence. The individual, if found guilty, would then be turned over to a body of experts drawn from the law, biology, psychology, sociology, and economics, who, after an exhaustive study, would determine what would be done. If it should be found that the offender was a dangerous character, against whom society should be protected, he would be committed to a proper institution and kept there for life, if necessary, regardless of the nature of his crime. In other words, the treatment would be made to fit the individual, and all commitments would be for life or until, in the judgment of the body of experts, it would be safe to restore him to society. The aim would be first of all protection to society and, secondly, correction and restoration if possible and feasible.

The Commission on Prison Reform for New York State, after an exhaustive study, stated in this connection:

The time-honoured practice of intrusting to the judge under whom a prisoner is convicted of a crime involving the punishment of imprisonment a wide discretion as to the penalty to be imposed has resulted in such grave abuses of justice as to call for its restriction. This discretion has never in our penal history been unlimited, it has been materially restricted by the present law providing for the indeterminate sentence within limits fixed by statute. In the opinion of your commission it should be further restricted in the manner suggested, vesting in another court or board of judicial dignity and authority and acting for the whole state, the jurisdiction to determine the period of imprisonment to be inflicted in each case. While perfect justice cannot be expected from any human instrumentality, it is conceived that a single court, acting for the entire state and sitting as a board of parole or court of rehabilitation, will be much more apt to administer an equal justice than is possible under the present system. Under such a plan it will be the prisoner and not the crime that will be tried and sentenced, and everyone convicted of crime will be permitted and required to work out his own salvation by demonstrating his fitness for release. If there are convicts who, because of habitual criminality, are unfit to be restored to a free and responsible life in the community, such a court or board as is here proposed will be as likely to keep them in confinement as a court imposing a sentence under existing conditions. Indeed, one of the gravest abuses of the present system under which hardened criminals are sentenced to a definite term, at the expiration of which they are necessarily released to resume their criminal practices, will in a large measure, if not wholly, be done away with. A man who has by his conduct in prison, and by his habits before committed to prison, demonstrated his unfitness for a life of freedom, should be kept permanently in detention irrespective of the nature of the particular crime of which he has been convicted.

> If the object of our penal system is punishment for crime, and nothing more, then, indeed, it may be argued that a hardened criminal, by a sentence of a given number of years, expiates the crime committed and is entitled to his freedom. But if the object of the penal law is to protect society by the confinement of those who prey upon it, there is nothing to be said for the system under which hardened criminals are, after a definite period of imprisonment, released to resume their evil practices. Your commission believes that such a court or board as is here recommended could more wisely determine how long such an offender should, in the interests of society, be confined than the judge by whom he was tried.

Under such a system crime would be handled as one would handle a business problem. Red tape would be eliminated, and the poor would have the same chance and receive the same treatment as the rich—if the poor man needed medical treatment he would get it, and if the rich men needed the rock pile he would get it. A claim of insanity, by which the wealthy now not only evade the law but also escape incarceration, would no longer be of any advantage, as the courts would only pass upon the guilt, after which the body of experts would commit the individual to the proper institution. Trials would be quick and brief and commitment inevitable if the accused were guilty. Politics and the personal equation would be eliminated, as the group of experts would be on a similar plane to the judges' in our Court of Appeals.

A proposal involving such radical changes naturally seems somewhat impractical at first thought, especially

to those who have not studied the matter. As a matter of fact, the changes involved are no greater than those that have actually taken place in the handling of disease and in several lines of business in the last twenty-five years.

It is greatly to the credit of Governor Alfred E. Smith of New York that he should have recognized the soundness of the proposal to change our system of sentencing and then should have had the courage to express his convictions to the Legislature as follows:

I have for some time, because of my direct experience with the results of the administration of criminal justice, become deeply impressed that we could make a great stride in the direction of real justice if we changed somewhat our methods of administering it. We are dealing with human beings, no two of whom are ever under normal circumstances exactly alike. How much more are they likely to differ under abnormal situations.

We have progressed in our knowledge of the processes of the human mind and the influence on it of physical conditions. I would like to see that knowledge applied to the determination of the kind and duration of punishment best adapted to bring about the restoration of delinquents to normal social life.

Because of my belief that justice sometimes miscarries because those charged with determining guilt are often affected by the thought of the sentence to be imposed for a given crime, I would suggest that the Crime Commission give careful study and consideration to a fundamental change in the method of sentencing criminals.

After guilt has been determined by legal process, instead of sentence being fixed by judges according to statute, I should like to see offenders who have been adjudged guilty detained by the state. They should then be carefully studied by a board of expert mental and physical specialists who, after careful study of all the elements

entering each case, would decide and fix the penalty for the crime.

I realize the complexity of such a fundamental change. It probably requires even constitutional amendment. Therefore, I recommend that your honourable bodies request the Crime Commission to report to you after due and careful study of the proposal, whether such a change is advisable and how it can be brought about. It appeals to me as a modern, humane, scientific way to deal with the criminal offender.

We now come to the question, What shall be done with the individual after conviction? Until the Eighteenth Century most of them were either killed or banished and a few were fined by way of exacting restitution. At various periods the killing was done on a huge scale, but as it was found that crime increased rather than decreased, capital punishment has waned and is tending to disappear entirely. Banishment declined and then practically disappeared, largely because there was no place to send the convicted. It was at this time that two of the world's greatest commonwealths were largely settled by men banished from England, and one of the United States, notable for the number of presidents it has furnished, was pioneered by English "exiles."

The prison was originated in connection with the Church for the purpose of punishment by penance; hence the word penitentiary now so widely used. When adopted by society, there was carried over into the prison the practice of physical punishment, which gradually succeeded to the practice of capital punish-

ment. Finally, there was a sort of blending of the ideas of penance and punishment, and this resulted in the assumption of retribution which is at the bottom of many practices in most of the prisons of to-day.

Retribution, which in reality amounts to nothing more than vengeance, cannot of course be defended as such, but there has been a tendency to defend it on the grounds of deterrency, which on its face seems logical. In practice, however, it has been found that the punishment involved in retributive measures is not in fact a deterrent, but on the other hand incites to crime.

The popular conception of a prison is that it is a place for punishment and that the best prison is the one in which the punishment is most severe. This is on a par with the popular notion that medicines are efficacious in proportion as they are ill tasting, and overlooks the true function of the prison, which is nothing more or less than *the protection of society*. A prison is, therefore, good or bad, efficient or inefficient, in proportion as it protects society.

Now, *protection* involves much more than mere custody, which protects society only for the period that the offender is confined. Custody for natural life would of course be protection against a repeated offense, but only a comparatively small number of prisoners are so committed. For the majority of prisoners there comes a day when the prison gate swings outward. They come into prison as social derelicts—the failures of the home, the

school, the church, etc. Is mere confinement under restraint and artificial and unnatural conditions calculated to fit them to adjust themselves to society's requirements? If not, the prison must do more than merely confine prisoners for the periods of their sentences.

What is being done? Practically nothing, I regret to say. This is not entirely the fault of prison officials, although too many of them feel that they have discharged their whole duty in safely guarding and holding the prisoner until the day of his release. As a matter of fact, this is the first duty of the official, but it isn't all that should be done, by any means. However, under restrictions laid upon him by the rules, by precedent and popular prejudice, any efforts that he may try to make along these lines are hampered and fall under the charge of "coddling." Incidentally, I have found that most of those who talk the longest and loudest about coddling have never even been inside of a prison as a casual visitor, or else they have a political ax to grind.

The running of a prison presents an extremely complicated and difficult problem. This is particularly true of Sing Sing, whose prisoners are admittedly the shrewdest and most desperate in the world. And these men must be kept in what is probably the worst cell block in the world and on prison grounds from which escape is theoretically easier than escape from any other great prison. With Sing Sing so close to New York City, every-

thing that relates to the prison is news. This is often of a character to promote destructive criticism which has an unfavourable effect upon the morale of officers and prisoners alike. Despite these conditions, however, Sing Sing is usually conceded to rank high in efficiency among the world's great prisons.

Much of Sing Sing's success has been due to the fact that it has for some years been divorced from politics. Secondly, Sing Sing has had a settled policy and has been working toward a definite goal set for it by a socially minded Commissioner of Correction. It is to be and is rapidly becoming a "clearing house for the receiving, classification, and distribution of all men committed to state prison—a real first step in the direction of the broader proposal made by Governor Smith.

The clearing-house plan, as now being worked out, contemplates that eventually all felons of New York State will be committed to Sing Sing Prison. Some of these prisoners will, as now, be men who are diseased or otherwise physically handicapped, some will be feeble-minded or mentally ill (psychopathic), some will be ignorant, some will be without trades, some will be moral perverts, some will be habitual offenders, some will be accidental offenders, etc. Obviously, for their own good and the good of society, they should be separated, just as those afflicted with disease are segregated for individual treatment.

These prisoners will be subjected to a period of obser-

vation and study by the administrative department in order that it may get a line on their general character, by the medical department for physical condition and disease, by the psychiatric clinic to ascertain their mentality, by the school for their education, by the industrial department for vocational ability, and by the chaplains for moral and religious ideas. After classification by these departments, each prisoner will in the perfected plan be sent to the institution which is best fitted to bring about a readjustment that will fit him to become a useful member of society if, and when, he is released from prison.

This work is now being done in part only, but each of the departments has been established and is now functioning. The last department, the psychiatric clinic, was started in 1927 and within a year was utilizing the services of a psychiatrist, assistant psychiatrist, psychologist, and two field investigators. Meanwhile, a pathologist and other medical assistants were added to the hospital staff, thus bringing the psychiatric clinic and hospital up to the working plane of the industrial and other departments of the prison.

It is hoped in time to teach every man a useful occupation and to have facilities for keeping all prisoners employed at productive labour for eight hours of every working day. It is also hoped that when this is accomplished it will be possible to operate the prison industries with an efficiency that will permit of prisoners being

paid a reasonable wage for their labour, the sum to be used if so desired for the support of their dependents, to make restitution under certain circumstances, or to accrue to their credit, thus providing something with which to "make good" upon their release.

From personal experience it is my firm belief that much of the recidivism (crime repeating) is due to the fact that the ten dollars which the state pays a prisoner upon release is insufficient with his other handicaps to enable him to get a real start. I know positively that the little additional help that I have been able to give many ex-prisoners who in their desperation have appealed to me has been the means of keeping them on the right track. It may be interesting to know that most of these loans have been repaid, for I find that the prisoner, like any other red-blooded man, does not want charity, but only an even break. I believe that a fund to be used for the making of such loans to worthy prisoners along the lines that loans are now made to college students would accomplish more good than any other philanthropic movement in behalf of prisoners. It is, in fact, the greatest opportunity of which I know for some organization or individual philanthropist to render a service that will yield imperishable social results.

THE END

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